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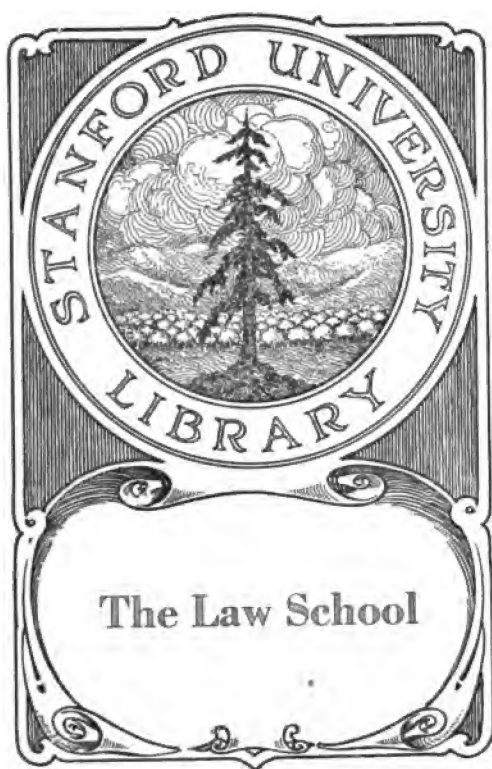
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JCI
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1845

Revised

THE
REVISED
ACTS AND ORDINANCES
OF *1844*
LOWER-CANADA.

Published by Authority,
UNDER THE SUPERINTENDENCE OF THE COMMISSIONERS FOR REVISING THE
SAID ACTS AND ORDINANCES.



Montreal:
PRINTED BY S. DERBISHIRE & G. DESBARATS,
PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.

1845.

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PREFATORY NOTICE.

THE task assigned to the Commissioners for revising the acts and ordinances of Lower Canada being completed by the publication of this volume and its counterpart in the French language, it only remains for them to give some account of the work itself and of the circumstances under which it has been undertaken and performed.

The two following Reports, which were laid before the Legislative Assembly by message from His Excellency the Governor General, on the 7th December, 1843, and in preparing which the undersigned had the assistance of their late colleague Mr. Heney, so fully detail the proceedings of the Commissioners up to the 24th November, 1843, that the undersigned think it right to insert them here, and to refer to them for an account of the progress of the work up to that date.

First Report.

To His Excellency the Right Honorable SIR CHARLES THEOPHILUS METCALFE, Baronet, G. C. B., &c. &c. &c.

MAY IT PLEASE YOUR EXCELLENCY,

The Commissioners appointed on the 16th of March, 1842, in compliance with the address of the Honorable the Legislative Assembly, bearing date the 28th day of August, 1841, to revise and examine the several statutes and ordinances from time to time passed, enacted and ordained in that part of the Province of Canada formerly called Lower Canada, and now in force and effect, and to consolidate such of the said statutes and ordinances as relaté to the same subject or can be advantageously consolidated, and thereupon to make such report as in their judgment should be most for the interest, welfare and good government of the said Province,

HAVE THE HONOR TO REPORT :

That in pursuance of the duty assigned to them, and in obedience to the instructions by them received in relation to the same, they have examined all the statutes and ordinances of the late Province of Lower Canada ; and having ascertained which of them are now wholly or partially in force, and having revised the latter so as to ascertain what portion of each is in force and effect, they have classified the same so as to place the several laws relating to the same subjects in the same class, and those relating to the subordinate heads in such class under the heads to which they respectively relate.

The commissioners have prepared and submit with this report two tables, the publication of which, under the superintendence of the commissioners, they respectfully recommend, as tending greatly to promote the attainment of the objects mentioned in the commission.

The first table contains a list of all the statutes and ordinances in their chronological order, and shows with regard to each act or ordinance: First: The subject of the law generally, and whether it was originally temporary or permanent.—Secondly: If temporary, the period to which it was limited.—Thirdly: The acts or ordinances (if any) amending, continuing, suspending or repealing it.—Fourthly: Whether it is or is not now in force, and, if still temporary, to what period it is to remain in force.—Fifthly: If certain portions only be in force, the sections or parts which are so, with references to the acts or ordinances by which the other portions have been repealed or suspended, and to those by which the law is modified or affected, or which contain provisions on the same subject.

The second table contains a classification of all the acts and ordinances in the order of their subjects, and shows under each head:—First: The laws relating thereto which have expired or have been repealed, or have become effete by the accomplishment of the purpose for which they were passed.—Secondly: The laws relating to the same subject and wholly or partially in force.

The necessity of preparing such tables, before any progress could be made in the consolidation of the statutes and ordinances on any subject or class of subjects, is too obvious to require elucidation.

The commissioners flatter themselves that the publication will have the effect of reducing the statutes and ordinances of Lower Canada into order, and of enabling any person, possessing a copy of them, at once to find the statute law in force on any subject, and to trace its history; and that one of the principal objects of the commission will thus be attained.

The commissioners have spared no labour in endeavouring to ensure the correctness of the said tables; but if among the multitude of references to upwards of one thousand three hundred acts and ordinances, any errors should have crept in, the work being before the public will ensure their discovery and correction, before the legislature shall be called upon to amend or consolidate the law, in those cases where amendment may be deemed necessary or consolidation advisable.

The commissioners purpose to submit subsequently more ample statements and details on the matters entrusted to them, but they have been induced to make this report at the present time in order that the publication they have the honor to recommend may take place with the least possible delay.

The whole nevertheless humbly submitted.

A. BUCHANAN.
H. HENEY.
G. W. WICKSTEED.

Montreal, 21st March, 1843.

Second Report.

To His Excellency the Right Honorable SIR CHARLES THEOPHILUS METCALFE, Baronet. G. C. B., &c. &c. &c.

MAY IT PLEASE YOUR EXCELLENCY,

The Commissioners for revising the acts and ordinances of Lower Canada, have the honor to make their second Report, as follows :

By a commission issued by His Excellency Sir Charles Bagot, then Governor General, bearing date the 16th day of March, 1842, the undersigned were appointed, jointly with the honorable C. R. Ogden, then Her Majesty's attorney general for Lower Canada, and the honorable C. D. Day, then Her Majesty's solicitor general for the same, commissioners to revise the acts and ordinances of Lower Canada, and to consolidate such of them as relate to the same subject and could be advantageously consolidated ;—their appointment being consequent upon an address of the Honorable the Legislative Assembly, dated 28th August, 1841.

Mr. F. G. Johnson, of Montreal, advocate, was appointed by His Excellency to be the secretary of the commission. The subsequent elevation of Mr. Day to the bench, and Mr. Ogden's absence in England, have prevented their taking part in the execution of the work, though the undersigned had the benefit of their assistance in deciding upon the plan they have endeavoured to follow out.

The commissioners met at Montreal, at an early period after their appointment, and agreed upon the plan of their future operations.

It appeared clear to them, that the first duty they had to perform was to ascertain, what acts and ordinances and what portions of each of them were in force, what not in force, and what doubtful. Until they were prepared to shew what the statute law on each subject was, it was in vain for them to attempt to consolidate the law on any subject, or to suggest amendments.

The task they undertook was laborious and irksome ; the question whether the whole of any act or ordinance had or had not expired or been repealed, was in many cases one of considerable difficulty, arising partly from the multitude of acts for reviving or continuing others or for making them permanent, but still more from the number of cases in which permanent laws had been repealed by temporary ones which had subsequently expired.

In England it appears to be settled, that in this case the repealed law would not revive, the effect of the repealing clause being held to be permanent, though that of the remainder of the act may be temporary : while in Canada, under the royal instructions, that no permanent clause should form part of a temporary act, the reverse has been generally held. But the mode of looking at this question has not been uniform ; thus for instance, the ordinance 28 G. 3. c. 8. (regulating the practice of physic) though repealed by the expired act 1 W. 4. c. 27, seems generally held to be in force, and the ordinance 20 G. 3. c. 4. (regulating *maîtres de postes*) repealed by the expired act 47 G. 3. c. 5. to be as generally held not to be in

force ;—while with regard to the ordinances 27 G. 3. c. 2. and 29 G. 3. c. 4. (regulating the militia) opposite opinions have been held and acted upon by high authorities, and the legislature itself seems to have come at different times to opposite conclusions, with regard to their revival or non-revival on the expiration of the temporary acts by which they had been repealed.

With regard to the question, what parts of each act or ordinance not wholly repealed or expired were in force, the inquiry was frequently much complicated ; the subsequent acts on any subject frequently repeating the provisions of prior laws, or containing provisions more or less at variance with them, without expressly repealing them.

In order to execute this portion of their task, the commissioners found it almost absolutely necessary to classify the laws wholly or partly in force, in the order of the subjects to which they relate. And having done this, they found it practically of great advantage to insert the laws themselves, in the order thus determined upon, in books prepared for the purpose, having ample margin for the notes and remarks they might have occasion to make. These books accompanying their present report.

Having executed, compared and revised this portion of their work, the commissioners made their first report to Your Excellency in April last.

In this report to which they respectfully refer, they had the honor to recommend the publication of two tables relative to the acts and ordinances of Lower Canada, the object of which they described and of which they submitted a portion for examination. Their recommendation was sanctioned by a report of the honorable the Executive Council, dated 26th April last, and approved by Your Excellency ; and the printing of the tables was commenced immediately afterwards. The English version has been completed and before the public for nearly two months ; the French version, which has been prepared by Mr. G. B. Faribault, advocate, under the superintendence of the commissioners, is now also completed and published.

The object of these tables, of which a copy in each language accompanies this report, was explained in the first report of the commissioners, and is, moreover, so obvious from the work itself and the introductory notes to it, that the commissioners hold it unnecessary to state it here. They contain the substance of the notes of the commissioners on the points to which they relate. No pains have been spared to make them correct, and to print them correctly. The *errata* which have been discovered have been noted in every case where they could have misled the reader ; and if any have escaped unobserved, it is believed they must be very few in number, and may be excused in a work containing several thousand references to and citations of laws and sections of laws, and being the result of the revision of about fifteen hundred acts and ordinances, which had undergone no prior revision from the time of the commencement of the series in 1777.

The work of revision being completed, it remained for the commissioners to consider the course they ought to adopt, under the clause in their commission authorising them to consolidate such of the said acts and ordinances as related to the same subject or could be advantageously consolidated.

With this object in view, they went carefully through such of the laws in question as are still in force; and the result of their earnest consideration was—that there were few if any cases in which the power given them could be advantageously exercised. On many of the most important subjects, indeed, the laws were numerous and complicated, but it was yet evident that they could not be advantageously consolidated by the commissioners, partly because there were acts of the parliament of Canada, to which the powers of the commissioners did not extend, forming part of the statute law on the same subjects, and without embodying which the consolidation would have been imperfect and almost useless, or because from the nature of the subject, it was desirable that the law relating to it should be common to both sections of the Province,—and partly, because there were also laws on the same subjects or intimately connected with them, which were of very recent date, and could scarcely be considered as more than experimental, and it was generally understood to be probable that changes so extensive would be made in the law, as to render any attempt at consolidation by the commissioners, who could have no knowledge what the nature and extent of these changes might be, utterly vain and fruitless.

As examples in point, the commissioners refer to the Laws relating to the administration of justice,—to the road laws, as connected with the ordinances establishing municipal districts and those incorporating the cities of Quebec and Montreal,—the laws relative to the provincial customs and duties,—and those concerning elections and the trial of contested elections. Assuredly these laws require consolidation and amendment, but it would have been impossible for the commissioners to attempt the work with any useful result.

In the appendix * attached to this report, the commissioners submit their remarks with reference to the subject of consolidation, on all the laws in force, and in the order in which they stand in the table No. 2. They have rarely suggested amendments, conceiving that their commission gave them no authority to do so, except in matters of pure form, or with reference to the removal of doubts. And both in the tables and the appendix, they have confined themselves to pointing out such difficulties as arise from the effect of one law or part of a law upon another, leaving it to other and higher authorities to solve or to remove the doubt, when occasion should require.

They submit, however, with this report two bills, one for removing doubts as to the repeal of certain laws and for repealing others which it seems obviously desirable to repeal,—and the other for declaring the act 9 G. 4. c. 77, concerning the conveyance or devise of lands held in free and common socage, to be and to have been in force. The reasons which induced the commissioners to prepare these bills will appear from the tables; and they respectfully request Your Excellency's attention to the subject. Another bill was prepared by the commissioners with reference to the civil erection

* NOTE.—It has not been thought necessary to insert this appendix which is of considerable length, the recommendations it was intended to support having now been approved and acted upon. It will be found printed with the reports, among the sessional papers of 1843.

of parishes, and the building of churches, &c., in such parishes ;—but it has been submitted to the ecclesiastical authorities for their remarks, and has not yet been returned by them.

After giving the subject their most serious consideration, the commissioners have determined upon recommending the republication of such of the said acts and ordinances as shall remain in force at the end of the present session, with a proper index, in preference to any attempt at further consolidation, for which the present time does not appear to the commissioners to be favorable. Many and great changes may be expected to be made by the legislation of the present session ; others may be expected to be consequent upon them ; and from the unavoidable imperfections of every new law, it is possible they may require amendments which cannot now be foreseen. In a few years, when the changes consequent upon the altered circumstances of the Province and the establishment of new institutions shall have taken a fixed shape, and the statute law in force in Lower Canada shall contain a much greater body of enactments than it now does, its consolidation may be expedient and necessary, or, as the provisions on any subject become numerous, they may be consolidated in a single act ; at present the commissioners are convinced that any attempt at a general consolidation could only occasion needless expense and delay. The commissioners suggest that the work they recommend should be printed in the same form and type as the tables, so as to bind up with them ;—they would print none but laws of a public nature, and (with the exception hereafter mentioned) none but those in force, omitting such sections of the latter as may have been repealed or have expired, and all merely formal parts,—and they would print them in the order in which they stand in the second table, that is, in the order of their subjects ;—they would add an index, and a table of the acts printed, arranged in their chronological order and shewing the place in which each may be found ;—and they would make a supplement to the first table shewing the effect of the acts of the present session on those mentioned in it. The tables would then account for every law or portion of a law not printed in the new work, and would save all necessity for repeating the information in the latter ; and as this must have been done if they had not been published, their previous publication, while it is hoped it will have been of advantage to the legislature and to the public, will have involved no additional expense.

There are laws of which the effect will long remain, as to rights acquired under their provisions, after they have expired or been repealed. But the acts and ordinances of Lower Canada are not in general of this description ; and, though there may be others among those expired or repealed by which the rights of parties may possibly be affected in future, those relating to the registry of titles to and incumbrances upon lands in certain counties, are the only ones which the commissioners would think it necessary on this ground to reprint ; but these they think ought to be inserted.

Until the end of the session it will be impossible to estimate exactly the extent of the work the commissioners recommend, because they cannot say what acts and ordinances may be repealed by the acts of this session ;—but

they have every reason to believe that it cannot exceed six hundred pages in each language, and that it will probably be comprised in a smaller number:—and for obvious reasons, they recommend that it should be published in each language separately. The question as to the best form for the publication has engaged the attention of the commissioners; and in selecting the royal octavo, they have been guided as well by the general preference shown by the profession for books in that form, as by the fact, that the revised statutes of the several legislatures in the United States which have come under their notice are published in it. The commissioners have selected the revised statutes of Massachusetts for their immediate model, as affording on the whole the best specimen of size, printing and arrangement.

At the same time that the octavo form and the type chosen, are more convenient than the quarto form and the type now used in printing the laws, they have also the advantage of being cheaper; for although the charge for composition will be the same, the cost of the paper, an item of no small consequence when a large number of copies are to be printed, will be greatly reduced.

It would have been possible to commence the reprint now recommended at the same time with the publication of the tables, but it would have been impossible to complete it before the commencement of the present session. The commissioners held it to be of great importance, that the work should contain the laws as they stood at some one definite period; and if the printing had been begun before the session, the work would not only have been deficient on this point, but as the laws which may be repealed during the session must have been inserted, there is every probability that greatly increased expense would have been added to inaccuracy. They have ascertained that by commencing it as early as possible after the close of the session, they will be able to complete it before the opening of the next, if the recess be of the ordinary length.

If to the publication in question there could be added a reprint of such parts of the custom of Paris as are still in force in Lower Canada, with an English version sufficiently clear to make the provisions of the custom intelligible to those unacquainted with the French language, the value of the work would be considerably enhanced; but much care, time and labour would be requisite in preparing this addition, and the commissioners fear that it could not be got ready so early as not to retard the publication. It seems very desirable that some means should be adopted for making the civil law of Lower Canada accessible to the English portion of the population. It is not within the province of the commissioners to discuss the best means of doing this, or to enter upon the subject of codification; but they have been induced to make this suggestion from their conviction, that the prejudice entertained by many to the civil law of Lower Canada, arises solely from their want of the means of obtaining that general knowledge of its provisions, which it is desirable to place within the reach of every man with regard to the law by which he is bound, but which, under existing circumstances, it is impossible for any inhabitant of Lower Canada to acquire, unless he be intimately acquainted with the French language. The same difficulty existed, and to a certain extent still exists, with regard to the criminal law,

for those unacquainted with the English language. That difficulty has in a great measure been removed by the excellent and comprehensive consolidation of a very considerable and most important portion of that law, contained in the statutes of the first session of the parliament of Canada : but other parts of the English law are in force in Lower Canada ; and it is still true, that two systems of law exist there, each of which, by reason of the language in which it is written, is inaccessible to a large portion of the people whom it binds.

The whole nevertheless respectfully submitted for Your Excellency's consideration.

A. BUCHANAN.

H. HENEY.

G. W. WICKSTEED.

Kingston, 24th November, 1843.

Their second report having been approved, the commissioners, after the close of the Session of 1843, lost no time in continuing the revision by ascertaining and noting the effect of the acts of that session on those of Lower Canada, and in preparing the copy for the printer.

In the month of January, 1844, they were deprived by death of the further assistance of their able and zealous associate Mr. Heney, who in this as in all of the many public duties in which he had been engaged, had spared no labour to render his eminent talents of service to his country.

In March, 1844, the copy being ready for the printer, the commissioners were directed to report on the most expeditious and economical mode of printing the work in a manner consistent with its character and nature, and having communicated with the Queen's Printer they reported a proposed arrangement, which being approved, they received the order to commence printing, on the 27th March, 1844.

From that time the work has continued regularly and with all the expedition consistent with correctness, excepting only the unavoidable interruption occasioned by the removal of the Seat of Government from Kingston to Montreal.

Before the commencement of the session in November, 1844, the text of the English version had been completed, with a brief index, copies had been distributed to the Judges and other public officers to whom they were especially requisite, and the printing of the French version was advanced to about four hundred pages. As it was found impossible to complete the general index before the commencement of the session, or early during its progress, it was thought better to defer it until the close, when the acts passed and their effect would be known. The printing of the French version was continued

and is now nearly completed; but the great press of work thrown upon the Queen's Printer in printing the acts of last session, amounting to upwards of six hundred pages in each language, has necessarily somewhat retarded the Revised Statutes.

In the form and extent of the work as recommended by the Commissioners in their second report, no change has been made, except that a type has been adopted a little larger than that used in the Tables. It was found that this could be done without any considerable increase of expense or of bulk, while the facility of reading would be considerably increased.

Acts of a merely *private* nature have been omitted, (as suggested in the report,) nor does it appear that any adequate advantage could be attained by reprinting them at the public expense.—An exception has been made in favor of the Quebec Bank ordinance (2 Vict. (3.) c. 24.) partly because there is now no place in the Province of which the inhabitants may not become in some way interested in its provisions, and partly because it is the only bank law of Lower Canada remaining in force, and the Revised Statutes and the acts of Canada will now contain all the enactments in force relative to banking institutions in Lower Canada.

Local acts have been abbreviated in those parts which are of purely local effect, but the substance of these is given, while every enactment interesting the public at large (as those by which the Province guarantees loans, &c.,) is inserted entire. The ordinances incorporating Quebec and Montreal are given at full length on account of the magnitude of the interests they affect; but as by far the greater number of sections in those relating to each city, are almost word for word the same, these sections are printed but once, and the differences only between them and the corresponding sections of the other ordinances are noted. By this arrangement much space has been saved; and one of the objects of the Commissioners throughout, has been to reduce the bulk of the volume so far as should be consistent with its utility. By omitting the formal enacting clause alone, in each act, upwards of fifty pages of useless repetition have been avoided. The preamble is always printed entire and if any part, however small, of a section is in force the whole section is inserted, except only in those cases where the substance is given in *judicio*. The titles of acts cited in others are for the most part abbreviated for the sake of saving room, but the title can be readily supplied by turning to the act cited.

The acts empowering the ministers of different religious denominations to solemnize marriage, &c., have been inserted (tho' in a condensed form) because the titles to property or other rights of any party, tho' not a member of the denomination, may depend upon the validity of some act performed by its minister. The repealed acts relative to the registration of titles to property have been inserted for the reasons mentioned in the second report.

The form and preparation of the general index have been the object of much care and attention. It would be easy to compile an index to a work of this kind which should bear a large proportion in bulk to the text itself. But in the present instance it was held desirable to be as brief as should be

compatible with facility of reference. The classified arrangement of the laws, and their being all contained in the same volume with the index made the task easier. Under the larger titles it appeared unnecessary to do more than refer to the pages where the laws relative to the subject would be found ; and this also seemed sufficient when any title formed the main subject of an act or acts : to have done more would only have been to insert the substance of the marginal notes in nearly the same order in which they stand in the body of the work, and the notes themselves can be looked through with equal readiness, and with greater advantage from their standing by the side of the text itself, to which instant reference can be made. The chief care appeared requisite with regard to *incidental* provisions upon matters not forming the main subject of an act, and for which therefore it would not obviously occur to the reader to search in it. The plan of the former indexes was therefore abandoned, and the work performed on the principles above mentioned. Under each of the larger titles the act or acts relating to it are briefly referred to, and the incidental and less obvious provisions are mentioned under the heads to which they immediately relate. Thus under the head "Registration of Titles, &c.," the whole ordinance in force is referred to, while its incidental provisions are mentioned under the heads of "Dower, Married Women, Husbands, Tutors, &c. &c."—These minor heads are accordingly very numerous, (much more so indeed than in the four parts of the former Index taken together,) and no word has been willingly omitted under which it was supposed likely that any provision would be sought for. The labour of preparing and examining the index was greatly increased by the adoption of this form, but it is hoped that the facility of reference and condensation attained will be found commensurate with it.

The table of acts and ordinances not inserted, was deemed requisite to complete the work. Its object and construction are explained in a note prefixed to it. With very few exceptions no act is inserted under more than one head, and a law may not be found under that which is first referred to, but the table is sufficiently brief to enable it to be looked entirely through without much labour.

The table last mentioned comes down to the present time, and the commissioners are engaged in continuing the "Tables relative to the acts and ordinances of Lower Canada," to the same date.

With this their labours will necessarily close, for the powers granted by their commission do not, and indeed could not consistently with the resolution of the Assembly, extend further. In their second report they have made some suggestions which may possibly lead to a continuation of the work thus commenced, but these suggestions cannot be acted upon without the sanction of the proper authorities. The perpetually changing current of legislation has already swept away some few of the laws inserted in this volume, and before many years have passed, the greater part of them will probably be superseded by acts consolidating and amending their enactments, (and to the perfection of this new legislation it is hoped this work may contribute something,) but there are many wise and valuable enactments which will long continue to form part of the statute law of Lower Canada.

To His Excellency the Governor General, the members of the Executive Council, to Mr. Johnson, the Secretary to the Commission, to the Queen's Printer, and to every other public functionary to whom they have had occasion to apply for instructions, assistance or information, the undersigned take this occasion to offer their acknowledgments for the uniform and kind attention and support they have received.

A. BUCHANAN.
G. W. WICKSTEED.

Montreal, 1st July, 1845.

C O N T E N T S .

PREFATORY NOTICE, II.

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THE

REVISED ACTS AND ORDINANCES

OF

LOWER CANADA.

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and Institutions.**

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 2. accepting office.
 3. Electoral divisions, boundaries of.
 4. Elections.
 5. Elections, controverted.
 6. Jews, political rights of.
 7. Aliens, naturalization of.
 8. Indian reservations, political rights of inhabitants of.
-

1. ASSEMBLY, MEMBERS RESIGNING.

An Act to allow Members of the House of Assembly to vacate their seats in certain cases, and for other purposes. 1 Will. IV.
Cap. 42.

WHEREAS it is expedient that the members of the house of assembly Preamble.
should be enabled to vacate their seats in certain cases:—Be it Members of
therefore enacted, &c., that from and after the passing of this act, it shall the assembly
be lawful for any member of the house of assembly, legally elected, or may vacate
who shall hereafter be so, who shall wish to abstain from the performance their seats.
of the duties imposed on him by his election as representative for any
county, town or borough in this Province, or for any county which may
hereafter be legally erected or established therein, to vacate his seat in the
manner hereinafter provided.

II. And be it further enacted, &c., that such member, in his place in Such member
the house of assembly, may give notice of his intention of resigning his to give notice
seat, and immediately after such notice shall have been entered by the in his place of
his intention of

resigning his seat.

Proviso.

clerk of the assembly in the journal, it shall be lawful for the speaker to issue his warrant in the usual form for the election of a new member in the room of the member who shall have so resigned : Provided always, that the member so tendering his resignation, shall be and be held and considered as being to all intents and purposes the representative for the place for which he was elected, until the return of the election of such new member to serve in his room shall have been duly made.

Manner in which a member may resign during a recess.

III. And be it further enacted, &c., that if any member shall wish so to resign in the interval between two sessions of the provincial parliament, it shall be lawful for him so to do, by addressing and causing to be delivered to the speaker a declaration to that effect, made and passed before two notaries public, or one notary and two witnesses, an entry of which declaration shall be made in the journals of the proceedings on the first day of the session of the provincial parliament then next ensuing; and that it shall be lawful for the speaker upon receiving such declaration, forthwith to issue his warrant for the election of a member in the room of the member so tendering his resignation.

No member to vacate his seat in the first session of a parliament, before a certain time.

IV. And be it further enacted, &c., that no member shall ask for leave to vacate his seat in the first session of any parliament, before the expiration of the first fifteen days of the said session, and that no member whose election shall be contested, shall so vacate his seat until after such contestation shall have been decided.

2. ASSEMBLY, MEMBERS ACCEPTING OFFICE.

4 Will. IV.
Cap. 33.

An Act for vacating the seats of Members of the Assembly in certain cases therein mentioned.

Preamble.

Any member accepting an office of profit, or becoming accountable for public money, his seat to be vacated, and a writ to issue for a new election. He may be re-elected.

WHEREAS it is expedient in certain cases to make void the election, and to vacate the seats of persons elected to serve as representatives in the assembly of this Province :—Be it therefore enacted, &c., that if any person chosen and returned as a representative or member in the assembly of this Province, shall accept of any office of profit from the Crown, or accept as a commissioner or otherwise, any appointment from the Crown, whereby he shall become accountable for any public money, his election shall be void, and the seat of such member shall thereafter become and be vacant, and a writ shall forthwith issue for a new election, as if such person so accepting such office, commission or appointment as aforesaid, were naturally dead : Provided always, that such person shall nevertheless be as capable of being re-elected to serve as a representative or member of the assembly, during the same or any ensuing parliament, as if his election had not been made void and his seat become vacant as aforesaid.

Not to extend to members of the assembly being officers in His Majesty's navy or army, or in the militia.

II. Provided always, and be it further enacted, &c., that nothing herein contained shall extend or be construed to extend to any member of the house of assembly, being an officer in His Majesty's navy or army, or in the militia of this Province, who shall be appointed or receive any new commission in the navy or army, or in the militia of this Province respectively; excepting only officers on the staff of the militia receiving permanent salaries.

3. ELECTORAL DIVISIONS, BOUNDARIES OF.

An Act to make a new and more convenient subdivision of the Province into Counties, for the purpose of effecting a more equal representation thereof in the Assembly than heretofore.

9 Geo. IV.
Cap. 73.

WHEREAS the present division of this Province, for the purpose of electing members to serve in the assembly thereof, as made by a certain proclamation, issued by virtue of and in conformity to the provisions of the statute in that case made and provided, by His Excellency Alured Clarke, Esquire, Lieutenant Governor, then administering the government of this Province, bearing date at the Castle of Saint Lewis, the seventh day of May, in the year one thousand seven hundred and ninety-two, is, by reason of the great extension of the old settlements and the formation of new settlements in remote parts of the Province, become inconvenient :—And whereas the appointment of fifty members to serve in the assembly, among the said divisions respectively, is, from the aforementioned causes, and the increase of the population of the Province since the date of the said proclamation, become unequal and insufficient ; for remedy thereof, and to remove as speedily and equitably as may be, the causes of the existing complaints and uneasiness on the subject :—Be it therefore enacted, &c., that from and after the passing of this act, this Province shall be divided into the following counties, which counties shall consist of, be bounded and limited as hereinafter described, that is to say :

Preamble.

The Province to be divided into the following counties.

10. The county of Gaspé shall be bounded on the south-west by a line, commencing at Point Maquereaux, on the north side, and at the entrance of Chaleurs Bay, running from thence north-west, a distance of forty-seven miles, thence south, sixty-nine degrees west, until it intersects a line running from Cape Chat on the river Saint Lawrence, due south-east, on the west by the said last mentioned line, and on the north and east by the river and gulf of Saint Lawrence ; including in the said county the island of Bonaventure, and all the islands in front thereof, in whole or in part, nearest the same, as well as the Magdalen Islands, in the said gulf of Saint Lawrence ; which said county so bounded, comprises the fiefs of Sainte Anne, Magdalen, Grande Vallée des Monts and Anse de l'Etang, the Bay of Gaspé and settlements therein, Point Saint Peter, Malbay, Percé, Anse à Beaufils, Cape Despair, Grand River, Little River and Pabos, and New-Port.

Bounds of the county of Gaspé.

20. The county of Bonaventure shall be bounded on the east and north by the county of Gaspé, and shall consist of such part of the inferior district of Gaspé as is included between the said county of Gaspé and the district of Quebec, including all the islands in front thereof, in whole or in part, nearest to the said county ; which county so bounded, comprises the seigniory of Shoolbred, the Indian Village or Mission, and the settlements above and below the same on the north of the river Ristigouche, the townships or settlements of Carlton, Maria, Richmond, Hamilton, including Bonaventure, Cox, including the town of New Carlisle, Hope, including Paspebiac, La Nouvelle and Port Daniel.

Bounds of the county of Bonaventure.

30. The county of Rimouski shall be bounded on the eastward by the inferior district of Gaspé, on the southward by the south-west boundary line of the seigniory of River du Loup, prolonged to the

Bounds of the county of Rimouski.

southern bounds of the Province, and on the north-west by the river Saint Lawrence, including all the islands in the said river Saint Lawrence, in front of the said county, in whole or in part, nearest the same; which said county so bounded, comprises the seigniories of Rivière du Loup, Isle Verte, d'Artigny, Trois Pistoles, Rioux des Trois Pistoles, Bic, Rimouski, Barnabé, Lepage, Tivierge, Mitis and Matane, and all other seigniories and lands comprised within the said limits.

Bounds of the
county of Ka-
mouraska.

40. The county of Kamouraska shall be bounded on the north-east by the county of Rimouski, on the south-west by the north-east boundary line of the seigniorie of Saint Roch des Aulnets, prolonged to the southern boundary of the Province, on the north-west by the said river Saint Lawrence, together with the islands in the said river Saint Lawrence, nearest to the said county, and in whole or in part fronting the same, and on the south-east by the southern boundary of the Province; which county so bounded, comprises the seigniories of Terrebois, Granville and Lachenaye, L'Islet du Portage, Granville, Kamouraska, Saint Denis, Rivière Ouelle and its augmentation, and Sainte Anne, and the townships of Bungay, Woodbridge and Ixworth.

Bounds of the
county of
L'Islet.

50. The county of L'Islet shall be bounded on the north-east by the said county of Kamouraska, on the south-west by a line parallel thereto running from the westerly angle of a tract of land commonly called the seigniorie of the River du Sud, prolonged to the southern boundary of the Province, on the north-west by the river Saint Lawrence, together with all the islands in the said river Saint Lawrence, nearest the said county, and in the whole or in part fronting the same, and on the south-east by the southern boundary of the Province; which county so bounded, comprises the seigniories of Saint Roch des Aulnets, Réaume, Saint Jean Port Joli, Islet, Lessard, Bonsecours, Vincelot and its augmentation, Cap Saint Ignace, Gagnier, Sainte Claire, Rivière du Sud and Lépinay.

Bounds of the
county of
Bellechasse.

60. The county of Bellechasse shall be bounded on the north-east by the said county of L'Islet, on the south-west by the north-east boundary lines of the seigniories of Lauzon and Jolliet, and of the townships of Frampton, Cranbourne and Watford, and thence by a line prolonged south-east to the southern boundary of the Province, on the north-west by the river Saint Lawrence, and include all the islands in the said river, nearest to the said county, and in the whole or in part fronting the same, and on the south-east by the southern boundary of the Province; which county so bounded, comprises the seigniories of Berthier, Saint Vallier, Saint Michel, Beaumont and its augmentation, La Durantaye and its augmentation, La Martinière, Vincennes, Saint Gervais and Livaudière, and the townships of Buckland and Standon.

County of
Dorchester.

70. The county of Dorchester shall consist of and comprise the seigniorie of Lauzon.

Bounds of the
county of
Beauce.

80. The county of Beauce shall be bounded on the north-east by the county of Bellechasse, as above described, on the south-west by part of the seigniorie of Saint Giles, by the townships of Broughton, Tring, and part of Shenley, to the south-eastern boundary line of the seigniorie of Aubert Gallion, thence along the south-eastern boundary line of the said last mentioned seigniorie to the river Chaudière, thence southerly up the middle of the said river Chaudière, and through the middle of the lake Megantick, to the entrance of Arnold river, thence up the said river to the southern

But see Tables

boundary of the Province, on the north-west by the county of Dorchester, and on the south-east by the southern boundary of the Province; which county so bounded, comprises the seigniories of Jolliet, Saint Etienne, Sainte Marie, Saint Joseph, Vaudreuil, Aubert-Gallion, Aubin de l'Isle, the townships of Frampton, Cranbourne, Watford, Jersey, Marlow, Rixborough, Spalding, Ditchfield and Woburn, and that part of Clinton, east of Arnold river.

9a. The county of Megantick shall be bounded on the north-west by the south-east boundary lines of the augmentation of Lotbinière, and part of the Saint Jean d'Eschaillons to the river Bécancour, being the south-east boundary lines of the county of Lotbinière as before described, on the north-east in part by the west lateral lines and rear lines of the seigniories Sainte Croix and Saint Giles, on the west by the east bounds of the township of Stamford, then easterly along the north-west bounds of the township of Arthabaska to its intersection with the north-west outline of the township of Halifax, thence south-westerly along the north-west bounds of Halifax, to the northern angle of Chester, thence south-easterly along the north-east bounds of the township of Chester, to the most easterly angle of the said township, thence north-easterly along the north-west outline of the township of Wolfstown, to the most northerly angle of the said township, thence south-easterly along the north-east boundary line of the said township, to the easterly angle of the same, thence south-easterly to the river Chaudière or lake Megantick; which county so bounded, comprehends the townships of Somerset, Nelson, Halifax, Inverness, Ireland, Wolfstown, Leeds, Thetford, Broughton, Colrairie, Tring, Shenley, Oulney, Wmslow, Dorset and Garhurst.

Bounds of the county of Megantick.

10a. The county of Lotbinière shall be bounded on the north-east by the south-western boundary line of the seigniories of Lanzone, Saint Etienne, and Sainte Marie, to the south angle of the said seigniorie of Sainte Marie, on the south-west by the south-west boundary of the seigniorie of Saint Jean d'Eschaillons and the augmentation thereof, on the south-east by the rear lines of the seigniories of Saint Giles, Sainte Croix, and the augmentation of the seigniories of Lotbinière and Saint Jean d'Eschaillons, and on the north-west by the river Saint Lawrence; which county so bounded, comprises the seigniories of Tilly or Saint Antoine, Gaspé, Saint Giles des Plaines, Bonsecours, Sainte Croix, Lotbinière and Saint Jean d'Eschaillons, and their augmentations.

Bounds of the county of Lotbinière.

11a. The county of Nicolet shall be bounded on the east by the county of Lotbinière, on the west by the seigniorial line between the seigniorie of Nicolet and the seigniories La Baie du Febvre and Courval, towards the north by the river Saint Lawrence, and on the south by the river Bécancour, being the boundary of the townships of Blandford and Maddington, by the rear line of the seigniorie of Bécancour, on the west of the said river by the division lines between the township of Aston and the augmentation thereof, and the seigniories of Godefroy, Roquetaillade, and the augmentation of Nicolet, and lastly by the rear line of the augmentation of Nicolet; and shall comprehend the whole tract of country included within the said limits.

Bounds of the county of Nicolet.

12a. The county of Yamaska shall be bounded on the east by the county of Nicolet, on the west by the county of Richelieu as hereinafter described, on the north by the river Saint Lawrence, and on the south by the rear line of the seigniories of Courval, Pierreville and Deguire or Rivière David;

Bounds of the county of Yamaska.

and shall comprehend the whole extent of the seigniories of La Baie du Febvre, Courval, Lussaudière, Pierreville, Saint François and the augmentation thereof, Lavallière, otherwise called Saint Michel d'Yamaska, and Deguire.

Bounds of the
county of
Drummond.

130. The county of Drummond shall contain the townships of Aston, Bulstrode, Stanfold, Arthabaska, Chester, Ham, Wotton, Tingwick, Warwick, Horton, Wendover, Simpson, Kingsey, Durham and Gore, Wickham, Grantham, Upton and Acton, together with all the gores and augmentations of the said townships.

Bounds of the
county of
Sherbrooke.

140. The county of Sherbrooke shall contain the townships of Garthby, Hatford, Whitton, Marston, Clinton, Woburn, Stanhope, Croydon, Chesham, Adstock, Lingwick, Weedon, Dudswell, Bury, Hampden, Ditton, Embarton, Drayton, Auckland, Newport, Westbury, Stoke, Ascot, Eaton, Hereford, Compton, Clifton, Windsor, Brompton, Shipton, Melbourne and Orford, together with all gores or augmentations of the said townships.

Bounds of the
county of
Stanstead.

150. The county of Stanstead shall contain the townships of Hatley, Barnston, Rarford, Stanstead, Bolton and Potton, with all the gores and augmentations of the said townships.

Bounds of the
county of
Missiskoui.

160. The county of Missiskoui shall contain the township of Sutton, the seigniori of Saint Armand, and the townships of Dunham and Stanbridge, together with all the gores and augmentations of the said townships.

Bounds of the
county of
Shefford.

170. The county of Shefford shall contain the townships of Ely, Stukely, Brome, Shefford, Roxton, Milton, Granby and Farnham, with the gores and augmentations of the said townships.

Bounds of the
county of Ri-
chelieu.

180. The county of Richelieu shall be bounded by the north-east line of the seigniori of Contrecoeur, as far as the river Richelieu or Chambly, thence by the said river Richelieu up to the south-west line of the seigniori of Saint Charles, on the river Richelieu, thence by the said south-west line as far as the line of the depth of the said seigniori, thence by the said depth line as far as the north-east line of the said seigniori of Saint Charles, thence by the said north-east line as far as the depth line of the seigniori of Saint Denis, thence by the said depth line as far as the line between the seigniories of Saint Hyacinthe and Saint Ours, thence by the aforesaid line as far as the river Yamaska, thence by the said river Yamaska, as far as the place where the continuation of the rear line of the seigniori of Saint Charles d'Yamaska would terminate at the said river, thence by the said depth-line as far as the north-east line of the said seigniori of Saint Charles, thence by the said north-east line of Saint Charles as far as the river Yamaska, thence by part of the said river which is between the said north-east line of Saint Charles and the north-east line of the seigniori of Bonsecours, thence by the said north-east line of the seigniori of Bonsecours as far as the Baie de la Vallière, thence by a line through the middle of the said Baie as far as its outlet into the river Saint Lawrence, and thence up the river as far as the north-east line of the seigniori of Contrecoeur; which county shall comprehend the seigniories of St. Ours and its augmentation, Saint Denis, Saint Charles on the river Richelieu, Sorel, Bourchemin west of the river of Yamaska, Bourg Marie west of the said river Bonsecours, and Saint Charles on the river Yamaska, comprehending the following islands in the river Saint Lawrence, that is to say: the Isle Cochon, Madame, Ronde, De Grace, Aux Ours, and the isles commonly called Battures à la Carpe, and the isles du Sable, du Moine, and du Bosque, and the isles in

the river Richelieu or Chambly, nearest the said county, and being in the whole or in part fronting the same.

190. The county of Saint Hyacinthe shall be bounded by the depth line of the seigniory of Saint Charles on the river Yamaska, beginning at the eastern angle of the said seigniory, proceeding until being prolonged it reaches the river Yamaska, thence by the said river Yamaska as far as the south-west line of the augmentation of the seigniory of Saint Ours, thence by the said line as far as the depth line of the seigniory of Saint Denis, thence by the said depth line as far as the north-east line of the seigniory of Saint Charles on the river Richelieu, thence by the said north-east line of Saint Charles, as far as the depth line of the said seigniory, thence by the said depth line as far as the north-east line of the seigniory of Rouville, thence by the said depth line as far as the depth line of the said seigniory of Rouville, thence by the said depth line as far as the line between Saint Hyacinthe and the augmentation of the seigniory of Monnoir, thence by the aforesaid line as far as the southern angle of the seigniory of Saint Hyacinthe, thence by the western line of part of the township of Farnham and the townships of Granby and Milton, as far as the north-west angle of the said township of Milton, thence by the northern line of the said township of Milton as far as the western line of the township of Upton, thence by the said western line of Upton, as far as the south-west line of part of the township of Upton, and thence by the said south-west line of the said township of Upton as far as the eastern angle of the seigniory of Saint Charles on the river Yamaska ; which county shall comprehend the seigniories of De Ramsay, Bouchemin east of the river Yamaska, and Saint Hyacinthe.

Bounds of the
county of
Saint Hyacinthe.

200. The county of Rouville shall be bounded on the north-west by the river Richelieu or Chambly, together with all the islands in the said river nearest to the said county, on the east and north-east by the counties of Missisquoi and Richelieu, and on the south by the southern boundary of the Province, comprising the seigniories of Rouville, Chambly East, Monnoir and its augmentation, Bleury, Sabrevois, Noyan and Foucault.

Bounds of the
county of
Rouville.

210. The county of Verchères shall be bounded on the north-west by the river Saint Lawrence, on the south-east by the river Richelieu or Chambly, on the south-west of the seigniories of Boucherville, Montarville and Chambly, and on the north-east by that part of the south-west boundary of the seigniory of Saint Ours, between the river Saint Lawrence and the river Richelieu, comprising all the islands in the said river Saint Lawrence and the said river Richelieu or Chambly, in front of and nearest to the said county, in whole or in part fronting the same ; which county so bounded, comprehends the seigniories of Contrecoeur, Bellevue, Verchères, Saint Blain, Guillodière, La Trinité or Cap Saint Michel, Varennes, Belœil and its augmentation, Cournoyer, and all the islands in the said river Saint Lawrence, opposite the same, Isle Bouchard excepted.

Bounds of the
county of
Verchères.

220. The county of Chambly shall be bounded on the north-west by the river Saint Lawrence, on the south-east by the river Richelieu or Chambly, together with all the islands in the river Saint Lawrence, and in the river Richelieu or Chambly, nearest to the said county, and in whole or in part fronting the same, on the south-west by the north-east boundaries of the seigniories of Laprairie and De Léry, and on the north-east by the county of Verchères ; comprehending the seigniories of Boucherville, Montarville,

Bounds of the
county of
Chambly.

Longueuil, Fief Tremblay, Chambly West, and the Barony of Longueuil, within the said limits.

Bounds of the county of Laprairie. 23o. The county of Laprairie shall be bounded on the north-west by the river Saint Lawrence, on the south-east by the township of Sherrington, and part of the Barony of Longueuil, on the north-east by the county of Chambly, and on the south-west by the seigniority of Beauharnois; and shall comprehend the seigniories of Laprairie de la Magdeleine, Sault Saint Louis, La Salle and Chateauguay, and the isles in the river Saint Lawrence, nearest to the said county, and either wholly or in part opposite the same.

Bounds of the county of Acadie. 24o. The county of Acadie shall be bounded on the north-west by the county of Laprairie, on the south by the Province line, on the east by the river Chambly or Richelieu, on the north-east by the county of Chambly, and on the south-west by the north-east line of the township of Hemmingford, and part of the seigniority of Beauharnois; and shall comprehend the seigniories of Lacolle and De Léry, and the township of Sherrington, also the islands in the said river Chambly or Richelieu, nearest to the said county, and which are wholly or in part opposite the same.

Bounds of the county of Beauharnois. 25o. The county of Beauharnois shall be bounded on the north-east by the said county of Laprairie, on the north-west by the river Saint Lawrence, and on the south-west and south, by the southern boundary of the Province, and shall include the Grande Isle, and all the islands nearest to the said county, and in whole or in part fronting the same; which county so bounded, comprises the seigniority of Beauharnois, and the townships of Hemmingford, Hinchinbrook and Godmanchester, and the tract of Indian lands to the west thereof, extending to the Indian village of Saint Regis, inclusively, on the southern boundary of the Province.

Bounds of the county of Vaudreuil. 26o. The county of Vaudreuil shall be bounded on the north and east by the river Ottawa, on the south and south-east by the river Saint Lawrence, and on the south-west and west by the boundary line separating that part of Lower Canada and Upper Canada, situate between the Saint Lawrence and the Ottawa, and shall include Isle Perrot, and all the islands in the said Grand or Ottawa river, and in the river Saint Lawrence, nearest to the said county, and in the whole or in part fronting the same; which county so bounded, comprises the seigniories of Vaudreuil, Rigaud, Soulanges and New Longueuil, and the township of Newton.

Bounds of the county of Ottawa. 27o. The county of Ottawa shall be bounded on the south-east by the south-easterly boundary line of the seigniority of La Petite Nation, running northward along the said boundary line, from the Ottawa river to the depth of the said seigniority, and thence the same course continued to the northern boundary of the Province, and on the west by the northerly and westerly bounds and limits of the Province, and on the south-west by the Grand or Ottawa river, in its whole extent to the lake Temiscaming, and from the head of the said lake, by a line due north to the boundary line of the Hudson's Bay territory, and shall include all the islands in the said Grand or Ottawa river, and in the lake Temiscaming, nearest to the said county, and in the whole or in part fronting the same; which county so bounded, comprises the seigniority of La Petite Nation, and the following townships, situate on the Grand or Ottawa river, that is to say, Lochaber and its augmentation, Buckingham, Templeton, Hull, Eardly, Onslow, and all the townships in the said limits on the north of the said Grand or Ottawa river.

280. The county of the Two Mountains shall be bounded on the east and north-east by the south-west boundary of the seigniory of Blainville, and the augmentation to Mille Isles, by the rear line of the augmentation to the seigniory of the Lake of the Two Mountains, by the rear line of Argenteuil, the eastern outline of the township of Wentworth, continued to the south-west bounds of the township of Howard, thence along the said bounds, and continuing on the same course, north-westward to the northern boundary of the Province, on the west by the said county of Ottawa, on the south and south-west by the Grand or Ottawa river, and shall include the Isle Bizarre and all the islands in the Grand or Ottawa river nearest to the said county, in the whole or in part fronting or intersecting the same, and on the north and north-west by the northern boundary of the Province; which county so bounded, comprises the seigniories of Mille Isles or Rivière du Chêne, Lake of the Two Mountains and the augmentation thereto, and Argenteuil, and the townships of Chatham, Grenville and Wentworth, Harrington, Arundel and Howard, and the parishes of Saint Eustache, Saint Benoît, Sainte Scholastique, Lake of the Two Mountains, and Isle Bizarre, and all the parishes, townships and lands, in the whole or in part comprised within the above limits.

Bounds of the
county of the
Two Moun-
tains.

290. The county of Terrebonne shall be bounded on the north-east by the south-west boundary line of the seigniory of Lachenaie to the depth thereof, thence westward along the rear boundary line thereof, thence westward along the rear boundary line of the augmentation of Terrebonne to the south-west boundary of the township of Kilkenny, thence along the said boundary north-westerly to the depth thereof, and thence on the same course to the northern boundary of the Province, on the south-west by the said county of the Two Mountains, on the north-west by the northern boundary of the Province, and on the south-east by that part of the river Ottawa commonly called Rivière des Prairies, together with the islands and seigniory of Isle Jesus, and all the islands in the said river, nearest to the said county, and in whole or in part fronting the same; which county so bounded comprehends the seigniories of Isle Jesus, Terrebonne, Des Plaines, augmentation of Terrebonne, Blainville, part of Mille Isles and its augmentation, and the township of Abercrombie.

Bounds of the
county of
Terrebonne.

300. The county of Lachenaie shall comprehend all the parishes of Lachenaie, Saint Henri de Mascouche and Saint Roch, and the townships of Kilkenny and Wexford.

County of
Lachenaie.
But see Tables.

310. The county of l'Assomption shall comprehend the parishes of Saint Sulpice, (comprising Isle Bouchard,) Repentigny, l'Assomption, and Saint Jacques, and the townships of Rawdon and Chertsey.

County of
l'Assomption.
But see Tables.

320. The county of Montreal shall comprise the whole of the island of Montreal, together with all the islands nearest to the said county, and in the whole or in part fronting the same; the said county comprehending the seigniories of Montreal, and the following parishes therein, that is to say: Montreal, Sainte Anne, Sainte Geneviève, Pointe Claire, Lachine, Sault des Recollets, Saint Laurent, Rivière des Prairies, Pointe aux Trembles, and Longue Pointe.

Bounds of the
county of
Montreal.

330. The county of Berthier shall be bounded on the north-east by the county of Saint Maurice, hereunder described, on the south-west by the said county of Lachenaie, on the north-west by the northern boundary of the Province, and on the south-east by the said river Saint Lawrence, and shall

Bounds of the
county of
Berthier.

include all the islands in the said river Saint Lawrence, nearest to the said county, and in the whole or in part fronting the same ; which county so bounded, comprises the seigniories of Berthier and its augmentation, Du Sablé or York, and part of Masquinongé, fief Chicot, and the seigniories of Lanoraie, Dautray, and their augmentations, the seigniory of Lavaltrie, and its augmentation, and the seigniories of Daillebout and De Ramsay, and the township of Brandon, and part of the seigniory of Lanaudière, and the township of Kildare, and the islands of Saint Ignace and du Pads.

Bounds of the
county of St.
Maurice.

340. The county of Saint Maurice shall be bounded on the north-east by the county of Champlain, on the south-west by the north-east boundary of the fief du Sablé or York, to the depth of the said fief, and from thence by a line on the same course prolonged to the northern boundary of the Province, on the north-west by the northern boundary of the Province, and on the south-east by the river Saint Lawrence, together with all the islands in the said river Saint Lawrence, nearest to the said county, and in the whole or in part fronting the same ; which county so bounded, comprises the seigniories of Sainte Marguerite, Saint Maurice, Pointe du Lac, Gatineau, Grosbois or Yamachiche, Rivière du Loup, Grand Pré, fief Saint Jean and its augmentation, Masquinongé, Carufel, and part of Lanaudière.

Bounds of the
county of
Champlain.

350. The county of Champlain shall be bounded on the north-east by the county of Portneuf, on the south-west by the river Saint Lawrence, on the south-east by the river Saint Lawrence, on the north-west by the northern boundary of the Province ; which county so bounded, comprises the seigniories of Sainte Anne and its augmentation, Sainte Marie, Batiscan, Champlain, Cap de la Magdeleine, and all the islands in the river Saint Lawrence, nearest to and in front of the said county.

Bounds of the
county of
Portneuf.

360. The county of Portneuf shall be bounded on the north-east by the south-west boundary line of the seigniories of Sillery and St. Gabriel, and by a prolongation of the said line, on the south-west by the north-east boundary line of the seigniory of Sainte Anne and its augmentation, and by a prolongation of the said line, on the north-west by the northern boundary of the Province, and on the south-east by the river Saint Lawrence ; which county so bounded, comprises the seigniories of Gaudarville, Fossambault, Demaure or Saint Augustin, Guillaume Bonhomme, Neuville or Pointe aux Trembles, Bourg-Louis, Belair, and its augmentation, Dauteuil, Jacques Cartier, Barony of Portneuf, Perthuis, Deschambault, Lachevrotière, La Tesserie, Francheville, Grondines, reste des Grondines, and their augmentations.

Bounds of the
county of
Quebec.

370. The county of Quebec shall be bounded on the north-east by the south-west bounds of the seigniory of Côte de Beauré, until it meets the south-east boundary line of the township of Tewkesbury, thence north-easterly along the said south-east boundary line to the south-east angle of the said township, thence northward along the north-east boundary or lateral line of the said township to its depth, and from thence by the prolongation of the said line, on the south-west by the said county of Portneuf, on the north-west by the northern boundary of the Province, and on the south-east by the river Saint Lawrence ; which county so bounded, comprises the seigniories of Beauport, Notre Dame des Anges, Dorsainville, Lépinay, fief Saint Ignace, fief Hubert, and the seigniories of Sillery and Saint Gabriel, and the townships of Stoneham, Tewkesbury, and the parishes of

Beauport, Charlesbourg, Saint Ambroise, Jeune Lorette, part of Ancienne Lorette, and Sainte Foi, and the parish, city and suburbs of Quebec, and all the parishes in the whole or in part comprehended within the above described limits of the said county.

38o. The county of Montmorency shall be bounded on the south-west by the said county of Quebec, on the north-east by a line to be run from Cap de l'Abatis on the river Saint Lawrence, on a course north-westward parallel to the said boundary line of Beauport to the northern boundary of the Province, on the north-west by the said northern boundary of the Province, and on the south-east by the river Saint Lawrence; comprehending the parishes of Saint Féréol, Saint Joachim, Sainte Anne, Château Richer and l'Ange Gardien.

Bounds of the county of Montmorency.

But see Tables.

39o. The county of Saguenay shall be bounded on the south-west by the said county of Montmorency, on the north-east by the north-easterly boundary of the Province, on the south-east by the river Saint Lawrence, including all the islands in the river Saint Lawrence nearest to the said county, and in whole or in part fronting the same, and on the north-west by the northern boundary of the Province; which county so bounded comprises part of the seigniority of Beaupré, the seigniorities of Gouffre, Eboulements, Murray Bay and Mount Murray, and the township of Settrington.

Bounds of the county of Saguenay.

40o. The county of Orleans shall comprehend the whole of the island of Orleans, together with all the islands nearest to the said county, and in whole or in part fronting the same; comprehending the parishes of Saint Pierre, Saint Jean, Sainte Famille, Saint Laurent, and Saint François, and the islands of Madame and Reaux.

Bounds of the county of Orleans.

But see Tables.

4. ELECTIONS.

An Act to repeal certain Acts therein mentioned, and to consolidate the laws relating to the election of Members to serve in the Assembly of this Province, and to the duty of Returning Officers, and for other purposes.

5 Geo. IV.
Cap. 33.

WHEREAS the act of the parliament of this Province, passed in the forty-seventh year of the reign of His late Majesty, intituled, *An act to provide returning officers for the election of knights, citizens and burgesses to serve in the house of assembly, and to regulate elections to be held for that purpose*, is defective, and the two acts since passed in amendment thereof will expire on the first day of May now next, and that it is expedient to repeal the said acts, and to make more ample provision respecting returning officers, and for regulating the election of knights, citizens and burgesses to serve in the assembly; Be it therefore enacted, &c., that the said act, &c. (47 Geo. III. cap. 16,) and an act, &c. (2 Geo. IV. cap. 4,) and an act, &c. (4 Geo. IV. cap. 8,) shall be, and the same are hereby respectively repealed.

Preamble.

IV. And be it further enacted, &c., that every person refusing to perform the duty of returning officer, after having been nominated and appointed thereto, in manner aforesaid, and after his receipt of a writ of election, shall forfeit the sum of twenty-five pounds, current money of this Province: *Penalty on persons refusing to act as returning officers.*

Qualification. Provided always, that every person named and appointed returning officer be resident in and qualified as an elector of the county, city or borough for which he shall have been so named and appointed.

But see Tables.
A returning officer may be elected a member of the assembly.

V. And be it further enacted, &c., that nothing contained in this act, shall extend or be construed to extend, to prevent or exclude any person who shall be nominated and appointed a returning officer from being elected a member of the assembly for any county, city, division of city or ward thereof, or borough, other than the county, city, division of city or ward thereof, or borough, for which such person shall have been nominated and appointed returning officer.

Fees of the returning officer.

But see Tables.

VI. And be it further enacted, &c., that, henceforth, each and every returning officer shall be allowed for his fees for attending at each election, the sum of three pounds, current money, and for drawing notifications, indentures and other necessary writings, five shillings each, as well for the French as for the English, when the same are required in both languages, together with forty shillings for furnishing and preparing a poll book; and shall moreover be allowed one shilling per league for sending to fix up such notifications in each parish or township, both going and returning, and his reasonable expenses for causing the same to be fixed up in his own parish or township; and when the poll shall last more than one day, he shall have a further allowance, for every other day that the poll shall be so held, of twenty shillings, like money; and whenever there shall be a poll, he shall also be allowed the sum of ten shillings, like money, for each and every day that the poll shall be so held, for a clerk; and when the returning officer does not reside in the place where the poll shall be so held, he shall be allowed the post charges of the journey—except when he shall be obliged to travel by water; and when the returning officer shall be under the necessity of travelling by water, a reasonable allowance for his expenses shall also be made: Provided always, that when a poll is demanded, the returning officer shall cause proper and convenient hustings to be erected or procure a proper and convenient place for holding therein the election, the expense of erecting which hustings, or the hire of such place for holding therein the election, shall be borne by the candidates and the representatives of the candidates, who shall have demanded or stood such poll, and be paid by them to the returning officer at the close of the election, to be by him distributed and paid to whom it shall appertain.

Who shall bear the expenses of the hustings.

The returning officer shall take an oath of office.

Penalty.

VII. And be it further enacted, &c., that every person who shall be nominated and appointed to act and officiate as a returning officer, shall, before proceeding to any election, take and subscribe before a magistrate the oath number one, in the schedule hereunto annexed; and the certificate of such oath shall be signed by the magistrate administering the same, and annexed to the return of every writ of election, under a penalty of fifty pounds, current money of this Province, upon every returning officer neglecting so to do.

The returning officer may appoint a clerk to assist him, who shall take an oath.
See Tables.
A justice of the peace may ad-

VIII. And be it further enacted, &c., that each returning officer may nominate and appoint, in writing under his hand, a person to act and assist him as clerk at the poll; and in such case the said returning officer is hereby authorized and required to administer to such person the oath number two, in the schedule hereunto annexed, before he shall act in the said capacity of clerk: Provided always, that nothing herein contained shall be construed to prevent any justice of the peace from administering such oath, or any

other oath authorized or required by this act, all which any and every justice of the peace, on due application to him for the purpose, is hereby authorized and required to administer. minister any oath required by this act.

IX. And be it further enacted, &c., that every person nominated and appointed returning officer, in the manner hereinbefore directed, shall, on receiving any writ of election to him addressed, indorse thereon the date on which he shall have received the same, and shall, within fifteen days then next following, cause public notice to be given of the day and hour, or the days and hours, at which such election will be held, at such place or places (as the case may be) as by this act is or are fixed on for such purpose, and the said notice shall be, by an advertisement in the French and English languages, conformable to the form number three, in the schedule hereunto annexed, posted up, immediately before divine service, in the forenoon, at the door of every church or chapel, or other public place of divine service, and be also thereat, at the issue, or immediately after such divine service, publicly and audibly read, in each parish of the city, town, township, borough or county for which such election is to be held, on a Sunday, not less than eight days nor more than fifteen days preceding the first day fixed for holding such election; and where there is no church or chapel, or other public place of divine worship, such advertisement shall be published and posted up at the most public place or places of the county, parish or township; and every returning officer refusing or neglecting to give such notice, as is hereinbefore directed, shall, for such offence, forfeit the sum of thirty pounds, current money of this Province. How the returning officer shall proceed on the receipt of a writ of election. But see Tables. Penalty.

XI. And be it further enacted, &c., that the elections, for the counties ~~fore~~ said, shall be held near the churches of the parishes hereinbefore fixed upon for holding the same, in the open air or in some building near the churches, provided such building be not a tavern or ale-house, and that free access be had thereto by every elector; and where there is no church, then at the most public place of the parish or place, fixed on for such election by this act. Places where the elections shall be held in the parishes. But see Tables.

XII. And be it further enacted, &c., that every returning officer shall, at the time and place fixed for holding any election, make proclamation in the presence of the electors then and there present, conformable to the form number four of the schedule hereunto annexed, and shall thereafter require the electors then and there present, to name the person or persons of whom they make choice as a member or members to serve in the assembly.— And if the candidates, or their respective representatives, and the electors, do agree and are so satisfied, upon a shew of hands, that the said candidates, or any or either of them, or any other person or persons proposed by the electors, is or are duly elected, then the said returning officer shall immediately close the said election, and shall proclaim such person or persons duly elected and named as a member or members of the assembly. But if any of the candidates, or any person representing a candidate, or any three electors then and there present, do not agree that the election ought to be immediately closed, and shall ask or demand a poll, then it shall be the duty of the returning officer, and he is hereby required, to grant the same, and forthwith to proceed and take the votes, and enter them in a book which he shall keep or cause to be kept for that purpose, according to the form number five, in the schedule hereunto annexed. And in all cases where an election is to be held in a county where two places are fixed upon or appointed by this act for holding the poll, the returning officer shall not hold Regulations to be observed by returning officers at elections. But see Tables.

- the said poll more than six days at the first place, and he shall be afterwards held to adjourn the said poll to the second place, if he be thereunto required by three electors for the said county, duly qualified and present at the close of the first poll, or by any candidate, or by any person representing a candidate then and there present : Provided always, that any elector may, at any period of any election, declare himself the representative of any absent candidate, without any special power to that effect : Provided also, that nothing in this act contained shall extend or be construed to extend to prevent any returning officer from closing any election to be held in virtue of this act, at any period of such election, if all the candidates and the representative or representatives of any candidate or candidates consent thereto, or if no vote shall have been given during one hour, the returning officer having first made proclamation of his intention to close the poll at the expiration of one hour from the time of such proclamation : Provided always, that after such proclamation, an adjournment of the poll, until the ensuing day, shall be granted, if so required by any three electors, at which time the election shall be finally closed, if no vote shall be given in the course of one hour, the returning officer having made proclamation of his intention to that effect, previous to the commencement of such hour. And provided also, and the returning officer is hereby required to keep the poll at every election open eight hours at least in each day subsequently to the first day of election, between eight of the clock in the morning and five of the clock in the afternoon, unless otherwise determined by the unanimous consent of the candidates, or their representatives, or by the final close of the poll.
- Proviso.** **Proviso.** **Proviso.**
- Time for keeping the poll open.**
- Electors' votes not to be refused but with the consent of all the candidates.**
- If objected to, the same to be entered in the poll book.**
- The returning officer's duty after closing the poll.**
- Any person having or**
- XIII. And be it further enacted, &c., that no returning officer, or person authorized by him to aid and assist him as a clerk, shall refuse the vote of any person claiming a right to vote as an elector, unless all the candidates, and person or persons representing any candidate or candidates, shall agree that such person is not qualified to vote at such election ; and in every case of objection by a candidate, or the representative of a candidate, to the vote of any person, the said returning officer, or the person by him authorized to aid and assist him as a clerk, shall enter in the poll book, opposite the elector's name, the words " objected to," and by whom ; and if required by the said candidate, or representative of a candidate, shall also cause to be entered in the said poll book, opposite the elector's name, the description of the property or specification of the qualification under which the right of voting is claimed.
- XIV. And be it further enacted, &c., that as soon as any election shall be closed, the returning officer for such election shall immediately proclaim the same, with a loud and audible voice, to the electors then and there present, and shall immediately execute an act or instrument of indenture thereof, under his hand and seal, and the hands and seals of at least three of the electors then and there present, agreeable to the form number six in the schedule annexed, one part of which act or instrument of indenture he shall forthwith deliver to each of the persons elected, or his representative, and the other part thereof, together with the writ of election, his oath, and the oath of his clerk, (if he have one) required by this act, he shall transmit to the clerk of the Crown in chancery without delay.
- XVI. And be it further enacted, &c., that any persons having or claiming to have a right to vote at any election of a member or members to serve

in the house of assembly for this Province, shall, before he is admitted to claiming a right of voting, vote at such election, take one or more of the oaths severally numbered one, two, three, four and five, in the schedule hereunto subjoined, (or being one of the people called Quakers, shall solemnly affirm,) in case the same shall be demanded by any or either of the candidates, or person representing a candidate; that is to say: if such person shall have or claim to have a right to vote at any election of a member or members to serve for a county, he shall take the oaths in the said schedule numbered one, two and three: if such person shall have or claim to have a right to vote as a proprietor at any election of a member or members to serve for a city, town or borough, he shall take the oaths in the said schedule numbered one, two and four; and if such person shall have or claim to have a right to vote as a tenant, in a city, town or borough, at any election of a member or members to serve for such city, town or borough, he shall take the oaths in the said schedule numbered one, two and five; which oaths and affirmations the returning officer is hereby empowered and required to administer *gratis*, under the penalty, in case of refusal so to do, of the sum of ten pounds, current money of this Province, to be recovered by any person who shall sue for the same, with full costs of suit, by action of debt, bill, plaint or information, in any of His Majesty's courts of competent jurisdiction; and no person shall be admitted to vote until he shall have taken the said oaths, in a public manner, before the returning officer, in case the same shall have been required as aforesaid; and the returning officer is hereby required to enter or cause to be entered in the poll book of such election, the name or names of every person so sworn, with his addition, profession or trade, the place of his abode, and the description of his property, or specification of the qualification under which the right of voting is claimed, in the same words made use of in the oaths, and also the nature of the oath or oaths administered; which entry the said returning officer shall certify by and under his hand, in the said poll book, opposite the name of the person so sworn.

XVII. And be it further enacted, &c., that when an elector shall not understand either the English or the French language, the returning officer shall swear an interpreter to translate the oath or oaths which shall be required of the said elector, as well as the questions which shall be put to him, and his answers; which interpreter shall take the oath following, to wit: "I swear that I will faithfully translate such oaths, declarations, affirmations, questions, and answers, as the returning officer shall direct me to translate: So help me God."

XVIII. And be it further enacted, &c., that if any returning officer shall admit any person to vote without taking such oath or oaths, affirmation or affirmations, or the description of the property or specification of the qualification on which such person claims the right of voting, if required as aforesaid, such returning officer shall forfeit for each offence the sum of ten pounds, current money of this Province, to be recovered in manner aforesaid; and if any person shall vote at such election, without having first taken the oath or oaths, or, if a Quaker, the affirmation or affirmations aforesaid, and given the description or specification aforesaid, if required, such person shall incur a similar penalty to that imposed upon the returning officer for admitting him so to vote as aforesaid, to be recovered in manner aforesaid.

XIX. And be it further enacted, &c., that if any elector or person taking the oath or oaths, affirmation or affirmations hereinbefore mentioned, shall be guilty of wilful and corrupt perjury, or of falsely affirming; or if any

right of voting,
shall take an
oath, if requir-
ed so to do.

See Tables.

An interpreter
may be sworn
in certain
cases.

Oath.

A returning
officer admit-
ting persons to
vote without
taking the
oaths, when
required, and
the persons so
voting, shall
pay a fine.

Persons con-
victed of per-
jury shall suf-

for the penalties of the law, and be incapable of being electors or sitting or voting in the assembly.

person shall bribe or corrupt another to take such oath or oaths, or falsely affirm, whereby he shall be guilty of wilful and corrupt perjury, and be thereof convicted in due course of law, such electors or persons shall respectively incur and suffer the pains and penalties which by law are imposed or inflicted in cases of wilful and corrupt perjury, or of subornation thereof, and be incapable of voting at any election, or of being elected, or of sitting and voting in the house of assembly.

No person can be an elector in a county unless he possesses real property of the clear annual value of forty shillings sterling.

XX. And be it further enacted, &c., that no person shall be admitted to vote at any election for any county in this Province, without having an estate in freehold, *fief* or *roture*, or derived from certificate of the Governor and Council of the Province of Quebec, or by virtue of some act or acts of the legislature of this Province, in the county for which he votes, of the clear yearly value of forty shillings, sterling, that is to say, forty-four shillings and five pence one farthing, currency, over and above all rents and charges payable out of or in respect of the same, and without having been in the actual possession thereof, or in receipt of the rents and profits thereof, for his own use, above six calendar months immediately preceding such election, unless the same came to him within the time aforesaid by descent or inheritance, marriage, contract of marriage, or by devise.

No person to vote as a freeholder in a city, town or borough, unless he possesses a lot of ground and dwelling house of the annual value of £5 sterling.

XXI. And be it further enacted, &c., that no person having, or who hereafter shall have or claim to have a right to vote as a freeholder, in any of the following places, that is to say, in the upper-town of the city of Quebec, in the lower-town of the said city, in the east ward of the city of Montreal, in the west ward of the said city of Montreal, in the town of Three-Rivers, or in the borough of William Henry, shall be admitted to vote at any election for any of the said places, unless such person at the time of such election be really and *bond fide* a proprietor and possessor for his own proper use, benefit, and behoof, in virtue of a legal title, of a lot of ground and dwelling-house thereupon, within the limits of the place for which the election is held, of the yearly value of at least five pounds, sterling, that is to say, two * pounds eleven shillings and one penny farthing, currency, over and above all annual rents, be the same ground rents or constituted rents, (*rentes constituées*,) with or for which the said lot of ground is annually charged or affected, and without having been in the actual possession thereof, or in receipt of the rents and profits thereof, for his own use above six calendar months, immediately preceding such election, unless the same came to him within the time aforesaid, by descent or inheritance, marriage or contract of marriage, or by devise.

See Tables.

* Five. See French version.

No person to vote as a tenant in a city, town or borough, unless he has resided as a tenant therein during twelve months, and paid an annual house-rent of £10 sterling.

XXII. And be it further enacted, &c., that no person who hath, or hereafter shall have or shall claim to have a right to vote as an elector at any election, for the said upper-town of Quebec, the lower-town of Quebec, the east ward of the city of Montreal, the west ward of the said city of Montreal, the town of Three-Rivers, or the borough of William Henry, as a tenant of any house or part of a house separately, within the limits of either of the places aforesaid, shall be admitted to vote, unless he shall have actually resided as a tenant within the limits of the place for which such election is held, during twelve calendar months next before the date of the summons for such election, and do actually reside within the limits of the place for which such election is held, at the time of voting thereat, and shall also have actually paid one year's rent, at the rate of at least ten pounds, sterling, equal to eleven pounds, two shillings and two pence and a half-penny, currency, a year, for the house or houses, or part or parts of a house

or houses, which he shall have occupied separately, during the time aforesaid: Provided always, and it is hereby declared, that any person who shall only have within the limits of any of the places aforesaid, a country house or office, or other place used as such, and who shall not actually reside there, shall not be entitled to vote at any such election. Province.

XXIII. And be it further enacted, &c., that no person shall vote in respect of, or in right of any estate which was granted or made over to him fraudulently and on purpose to qualify him to vote at any election; and that if any person shall vote in respect of or in right of any such estate granted and made over to him as aforesaid, or if any person shall vote more than once at the same election, or shall vote contrary to the true intent and meaning of this act, or without being legally qualified to vote and knowing such to be the case, he shall forfeit and pay to any person suing for the same, the penalty of ten pounds, current money of this Province, for every such offence, to be recovered in manner aforesaid, with full costs of suit, in any of His Majesty's courts of competent jurisdiction. Persons voting in right of any property acquired fraudulently, shall pay a fine.

XXIV. And be it further enacted, &c., that every person who, by himself or by means of others in his interest or favour, shall, before or during the time of any election, employ or cause to be employed any means of corruption, to obtain any vote at such election, or to prevent any elector from giving his vote thereat, in keeping him back by any threat, or causing him to lose any salary or advantage, or by making him any promise of any gift, advantage or reward; or who shall at any time within one month prior to any election, or during the same, either by himself or by any other person by him employed, or by any ways or means whatsoever, directly or indirectly, make a present of, or allow to any person having a right to vote at such election, of any sum of money or promise of any sum of money, or other reward, or who shall at his cost or charge, open or support, or cause to be opened and supported, any house of public entertainment during the period aforesaid, within the limits of any county, or within the county in which any city, town or borough is situated, for which such election is held, every such person so offending, (the offence being proved to the satisfaction of the house of assembly,) shall be adjudged and declared to be disqualified to sit or vote in the said house of assembly upon such election, and thereupon a new writ of election shall issue; and every such person so disqualified shall be, and is hereby declared incapable of being re-elected at such new election, or at any other election during the continuance of the then provincial parliament. Any person convicted of having employed illegal means to obtain votes shall be disqualified to sit and vote in the assembly.
See Tables.

XXVI. And be it further enacted, &c., that all conveyances of real property or estate, made and executed to and in favor of any person or persons, in a fraudulent or collusive manner, on purpose to qualify him or them to give his or their vote or votes at any election of a member or members to serve in the house of assembly, notwithstanding any condition or agreement to defeat or determine such conveyance, or to reconvey the same, shall be deemed and taken against the persons who shall have made and executed the same, valid and absolute, and the real property or estate thereby granted and conveyed, shall be holden and enjoyed by the person or persons, to or in whose favor the said conveyance or conveyances shall have been made and executed, his or their heirs and assigns for ever, free and clear, and absolutely exonerated and discharged of and from all conditions and agreements made and contained in such conveyance or conveyances, to defeat or determine the estate thereby conveyed, or for the reconveyance thereof, Conveyances of real property made in a fraudulent manner in order to entitle a person to vote, shall be valid against the party making them.

whether the said conditions or agreements be with the grantee or grantees, or with any person or persons in trust or acting for him or them ; and all such conditions and agreements as shall be made and contained in any such conveyance or conveyances made and executed as aforesaid, to defeat and determine the estate thereby granted and conveyed, or for the reconveyance of the same, shall be null and void to all intents and purposes, and the real property or estate thereby granted and conveyed, shall vest in the person or persons to and in whose favor the said conveyance or conveyances shall have been made and executed, his or their heirs and assigns for ever, and in the same manner as if no such conditions or agreements had been made or entered into : And every person who shall make or execute such conveyance or conveyances as aforesaid, or be privy thereto, or devise or prepare the same, or vote at any election in pursuance and by virtue thereof, shall, for every such conveyance so made and executed, forfeit and pay the sum of forty pounds, current money of this Province, each.

Any returning officer taking a part in an election shall pay a fine.

XXVII. And be it further enacted, &c., that no returning officer shall take any part either before or during any election by him held, by favoring or influencing, or causing to be favored or influenced, the interest of any candidate or candidates at such election, but that the said returning officer shall conduct himself in an upright and impartial manner, in the discharge of the duties of his office, and shall faithfully take and enter, or cause to be faithfully taken and entered, the votes of the electors and other particulars, in the poll-book as hereinbefore directed, under the penalty of the sum of twenty-five pounds, current money of this Province.

No person to wear flags, ribbons, &c.

But see Tables.

XXVIII. And be it further enacted, &c., that each and every person who shall at any election of a member or members to serve in the assembly, wear or carry any flag, ribbon, or cockade or other badge or mark whatsoever, to distinguish him or them as supporting any particular candidate or candidates at such election, or who shall by violence, menace or malicious practice, or in any manner or way whatsoever, impede or disturb, or thereby endeavour to impede or disturb any election, or thereby prevent or endeavour to prevent any elector or electors from giving his or their votes at the same, according to his or their wish or desire, shall, on conviction thereof, forfeit and pay the sum of ten pounds, current money of this Province, for every such offence.

The returning officer to have power to maintain order and command peace officers to assist him.

XXIX. And be it further enacted, &c., that every returning officer, shall have power and authority to maintain and enforce order, and keep the peace at the election held by him ; and all officers and non-commissioned officers of militia, constables and other peace officers, and all others His Majesty's subjects, within the limits of the place for which such election is held, or who shall be present thereat, are hereby required to be aiding and assisting him therein ; and if any person or persons shall commit violence, or be engaged in any affray or riot, or be armed with clubs, staves, or other offensive weapons, or wear or carry any flag, ribbon, or cockade, or other badge or mark whatsoever, to distinguish him or them as supporting any particular candidate or candidates, or in anywise disturb or threaten to disturb the peace or order at such election, or wilfully prevent or endeavour to prevent any elector or person from coming to vote thereat, or in anywise interrupt the poll or the business thereof, the said returning officer shall have power and authority, on view, or on the oath of one credible witness, (which oath the said returning officer is hereby authorized and empowered to administer) to arrest or confine or commit to prison any such person or

persons so offending, by an order in writing directed to any officer of militia, peace officer or gaoler, within the limits of the place for which such election is held, which order such officer of militia, peace officer or gaoler is hereby required and commanded to obey under a penalty of not exceeding five pounds, current money of this Province, for disobedience thereto, provided the time of such arrest, confinement or imprisonment, shall not exceed twenty-four hours : And provided also, that no such arrest, confinement or imprisonment, shall in any manner exempt the person or persons so arrested, confined, imprisoned or detained, from any of the pains and penalties to which they may be liable for any thing done contrary to the true intent and meaning of this act. *See Tables.*

XXX. And be it further enacted, &c., that if at any election the poll shall be interrupted by the death or severe illness of the returning officer, the person authorised by him to aid and assist him as clerk, and sworn as is hereinbefore directed, shall, under the penalty of the sum of one hundred pounds, current money of this Province, to be paid to any person suing for the same, and to be recovered as hereinbefore directed, with full costs of suit, forthwith assume the functions of the returning officer, and take and subscribe the oath hereinbefore directed to be taken and subscribed by the returning officer before proceeding to such election, which oath any magistrate is hereby authorised and required to administer, and shall proceed to take the poll, and act in every respect as returning officer, for all the purposes of this act, and in the same manner as if he had been originally returning officer, and with all and every the powers and authority appertaining to the appointment of returning officer ; of all which the said clerk shall make a particular entry in the poll book, as well as make a special return, unless his authority shall have been previously superseded by the recovery of the returning officer from such illness as aforesaid, or the legal appointment of a new one, as the case may be. *In case of death or illness of the returning officer, the clerk of the poll shall supply his place. See Tables.*

XXXI. And be it further enacted, &c., that if any vacancy shall happen in the assembly by the death of any member or otherwise, it shall be the duty of the speaker, on information thereof being given to him by any member rising in his place, if the said vacancy shall happen during any session of the assembly, or in writing, under the hands and seals of any two members of the assembly, if the said vacancy shall happen during any recess of the assembly by prorogation or adjournment, to give notice thereof by a warrant under his hand and seal, directed to the clerk of the Crown in chancery, that a new writ may issue for the election of a member of the assembly to fill up such vacancy. *On a vacancy happening in the assembly, the speaker shall issue his warrant for a new election.*

XXXII. And be it further enacted, &c., that it shall be the duty of the senior officer of militia, in each and every parish or township in this Province, to cause the nineteenth, twentieth, twenty-third, twenty-fourth and twenty-fifth sections of this act, to be publicly read at the church door of each of their respective parishes or townships, immediately after divine service, on some Sunday or holiday, not more than three weeks, nor less than eight days, before every election of a member or members to serve in the house of assembly, for the county in which such parish or township is situate ; and that it shall be the duty of every returning officer, immediately before proceeding to any election, to read, or cause the aforesaid sections of this act to be publicly read to the electors then and there present. *The senior officer of militia shall cause certain clauses of this act to be read. See Tables.*

XXXIII. And be it further enacted, &c., that it shall be sufficient for the plaintiff in any action given by this act, to state in the declaration, that the plaintiff in any action

given by this act may allege the offence without mentioning the writ of summons.

Limitation of actions.

The fines to be paid to the receiver general and to be accounted for.

Copies of this act to be transmitted to the returning officers.

defendant is indebted unto him in the sum of money thereby demanded, and to allege the particular offence for which the action or suit is brought, and that the defendant hath acted contrary to this act, without mentioning the writ of summons to parliament, or the return thereof; and it shall be sufficient in any indictment or information for any offence committed contrary to this act, to allege the particular offence charged upon the defendant, and that the defendant is guilty thereof, without mentioning the writ of summons to parliament or the return thereof, or the authority of the returning officer, grounded upon any such writ of summons: Provided always, that every action, suit or information given by this act, shall be commenced within the space of nine calendar months next after the fact committed, and not afterwards.

XXXIV. And be it further enacted, &c., that the fines, forfeitures and penalties by this act imposed, except those which are granted to informers, shall be paid into the hands of His Majesty's receiver general, for the public uses of the Province and the support of the government thereof, and shall be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury, for the time being, in such manner and form as His Majesty, His Heirs and Successors shall direct.

XXXV. And be it further enacted, &c., that a sufficient number of copies of this act shall be printed separately, and one copy thereof shall be forwarded to every returning officer, who shall be hereafter named and appointed for any ensuing general or special election, together with the writ of election that shall be addressed to him.

SCHEDULES.

NUMBER ONE—OATH OF THE RETURNING OFFICER.

" I, A. B. returning officer for the (county, city, division of a city, ward thereof, town or borough of &c.) do solemnly swear, (*or being one of the people called quakers*, do solemnly affirm) that I am resident in and duly qualified as an elector of this county, (city, division of a city, ward thereof, town or borough of &c.) and that I have not, directly nor indirectly, received any sum or sums of money, office, place or employment, gift, gratuity, or reward, or any bond, bill or note, or any promise of any gratuity whatsoever, either by myself or by any person for my use, benefit, or advantage, for favoring the election of any particular person or persons, or making or endeavouring to make the return of any particular person or persons, at the present election of a member (*or members*) to serve in the assembly of this Province; and that I will proceed in taking the votes of the electors, and will make return of such person or persons as shall appear to me to have the majority of legal votes; and this I do solemnly swear (*or affirm*): to do without partiality, fear, favor or affection: So help me God."

NUMBER THREE—FORM OF THE NOTICE TO BE GIVEN BY A RETURNING OFFICER PRIOR TO HOLDING ANY ELECTION.

" County, (city, division of a city or ward thereof, town or borough of &c.)—" Public notice is hereby given to the electors in the county, (city, division of a city or ward thereof, town or borough of &c.) qualified to elect and constitute a

" member (or members) to serve in the assembly of this Province, that in
" pursuance of His Majesty's writ to me directed, bearing date the
" day of I do require the attendance of the electors of the
" said county, (city, division of a city or ward thereof, town or borough of
" &c.) at in the parish of (or
" &c.) on the day of at of the clock
" in the forenoon, for the purpose of electing a person or persons to re-
" present them in the ensuing (or present) assembly of this Province.
" And I do give further notice, that I shall continue the said election, in
" such manner as is by law directed, of which all persons are hereby re-
" quired to take notice, and govern themselves accordingly.
" A. B., Returning Officer.
" the day of 18

NUMBER FOUR—FORM OF THE PROCLAMATION.

" Oyez, yvez, oyez. All manner of persons are strictly commanded and
" charged to keep silence, while His Majesty's writ of summons is publicly
" read for the election of a member (or members) to serve in the assembly,
" for the county, (city, division of a city or ward thereof, town or borough
" of &c) under the pains and penalties resulting therefrom. "

NUMBER FIVE—FORM OF THE POLL BOOK.

Names of the voters. Address, trade or profession. Qualification and where situate. Proprietor or tenant.	Candidates.			Entries to be made if the voter be objected to or sworn.		Signature of the returning officer opposite the name of the voter, if objected to or sworn.								
	Name of the occupier, if the voter is not in possession. If objected to and by whom.	A.	B.	C.	Place of his abode, in the terms used by the voter in the oath.	Description of his property or qualification if objected to, or if sworn, in the terms used by the voter in the oath if sworn.	Nature of the oath or oaths administered to the voter.							
							Number.							
							One.	Two.	Three.	Four.	Five.			

NUMBER SIX—FORM OF THE INDENTURE.

" This Indenture made this day of in the year of
" our Lord, one thousand eight hundred and and in the
" year of the reign of our Sovereign (Lord George the Fourth,) by the
" Grace of God, of the United Kingdom of Great Britain and Ireland,
" (King,) defender of the faith : Between A. B. Esquire, returning officer,
" for the county, (city, division of a city or ward thereof, town or borough
" of &c.) in the Province of Lower Canada, of the
" one part, and C. D., E. F. and G. H. electors of the said county, (city,
" division of a city or ward thereof, town or borough of &c.)
" of the other part,—Witnesseth—that in conformity to (His) Majesty's

" writ, bearing date the day of now last past
 " (or instant) and after notice thereof having been given according to law,
 " they the said C. D., E. F. and G. H. electors as aforesaid, in full assem-
 " bly, have chosen D. E. (and F. G.) Esquire, (or Esquires) as a mem-
 " ber (or members) to serve for the said county, (city, division of a city
 " or ward thereof, town or borough of &c.) in the assembly of
 " this Province, to be held at (Quebec,) the day of
 " next; and they the said electors did, and do hereby give to the said D.
 " E. (and F. G.) ample and sufficient power for them the said electors and
 " the commons of the said county, (city, division of a city or ward thereof,
 " town or borough of &c.) distinct from the said commons, to
 " make and consent to such matters, as in the said assembly by the com-
 " mon council of the said Province, shall be by the favor of God ordained.
 " In witness whereof, the said parties have to these presents, made and exe-
 " cuted in three parts, severally set and subscribed their respective names
 " and signatures, and affixed their respective seals, the day and year first
 " above written."

A. B., Returning Officer. (L. S.)

Electors, { C. D. (L. S.)
 { E. F. (L. S.)
 { G. H. (L. S.)

OATHS TO BE ADMINISTERED TO VOTERS.

NUMBER ONE.

" You swear, (or being one of the people called quakers, you solemnly
 " affirm) that your name is that your addition, profession or
 " trade is that the place of your abode is at in
 " the county of (and if in a city or town, the street or part
 " of the city or town is to be specified) that you are of the full age of
 " twenty-one years, and that you have not already voted at this election :
 " So help you God."

See Tables.

NUMBER FOUR.

" You swear, (or being one of the people called quakers, you solemnly
 " affirm,) that your name is that your addition, profession or
 " trade, is that the place of your abode is at
 " in the county of (and if in a city or town, the street or
 " part of the city or town, is to be specified) that you are really and
 " bona fide proprietor and possessed for your own proper use, benefit and
 " behoof, in virtue of a legal title, of a lot of ground and dwelling-house
 " thereon, within the limits of this (upper or lower town of the city of
 " Quebec, east ward or west ward of the city of Montreal, town of Three-
 " Rivers or borough of William Henry, as the case may be) adjoining on
 " one side to the house or lot occupied by and on the other
 " side to the house or lot occupied by which lot of ground
 " and dwelling house so belonging to you, is of the yearly value of five
 " pounds sterling, that is to say, five pounds, eleven shillings and one penny
 " farthing, currency, or more, over and above all rents and charges payable
 " out of or in respect of the same; and that you have been in the actual pos-
 " session thereof, or of the receipt of the rents and profits thereof, for your
 " own use, for six calendar months and upwards, immediately preceding
 " the present election, (or that the same came to you by descent or inheri-
 " tance, marriage, contract of marriage, or by devise,) and that such lot of

NUMBER FIVE.

“ You swear, (*or being one of the people called quakers*, you solemnly
“ affirm) that your name is _____ that your addition, profession or
“ trade is _____ that you have resided as a tenant within the
“ limits of this (upper *or* lower town of the city of Quebec, east ward *or*
“ west ward of the city of Montreal, town of Three-Rivers *or* borough of
“ William Henry, *as the case may be*) during the space of twelve calen-
“ dar months or upwards, next before the date of the writ of summons for
“ the present election ; that you have actually paid for the said twelve
“ months, a rent not less then ten pounds sterling, equal to eleven pounds,
“ two shillings and two pence and a half-penny, currency ; and that you
“ have not already voted at this election : So help you God. ”

An Act to amend a certain Act passed in the fifth year of His Majesty's reign, for the purpose of consolidating the laws relating to Elections.

WHEREAS it is expedient to modify the tenor of a certain oath or Preamble. affirmation required to be taken or made in certain cases therein mentioned, by an act made and passed in the fifth year of His Majesty's reign, intituled, *An act to repeal certain acts therein mentioned, and to consolidate the laws relating to the election of members to serve in the assembly of this Province, and to the duty of returning officers, and for other purposes* :—Be it therefore enacted, &c., that no person shall hereafter be required to administer, take or make the oath or affirmation mentioned and referred to in the said act as number three in the schedule thereunto annexed, which oath or affirmation is in the words following :—

“ You swear, &c., (*Oath No. 3, of the “ oaths to be administered to voters,” in the schedule to the said act recited*) ; but that in all cases wherein the said oath or affirmation might heretofore have been required to be administered, taken or made, and under the pains and penalties provided in the said act with respect thereto, the following oath or affirmation shall be administered, taken or made, that is to say : “ You swear, (*or being one of the people called Quakers, you solemnly affirm,*) that your name is

that your addition, profession or trade is

that the place of your abode is at _____ in the county of _____ (*if in a city or town, the street or part of the city or town is to be specified,*) that you are owner and possessed of for your own use and benefit of an estate in freehold, (*fief or roture, or derived from certificate of the Governor and Council of the Province of Quebec, or by virtue of some act or acts of the legislature of this Province, as the case may be*) lying and being at _____ in the county of _____ adjoining on one side to the land or tenement occupied by _____ and on the other side to that occupied by _____ which land or tenement so belonging to you is of the clear yearly value of forty shillings, sterling, that is to say, forty-four shillings and five pence one farthing, currency, over and above all rents and charges payable out of or in respect of the same ; and that you have been in the actual possession thereof, or of the rents and profits thereof, for your own use for six

Act 5 Geo. 4. Cap. 33, amended by substituting a new oath.

Former oath abrogated.

The new oath.

"calendar months and upwards immediately preceding the present election,
 " (or that the same came to you within that time by descent or inheritance,
 " marriage, contract of marriage, or by devise,) and that such land or tene-
 " ment hath not been granted or made over to you fraudulently, and on
 " purpose to qualify you to vote at any election; and that you have not
 " already voted at this election : So help you God."

See Tables.

Separate copies of this act to be printed and to be forwarded to each returning officer.

II. And be it further enacted, &c., that a sufficient number of copies of this act shall be printed separately, and one copy thereof shall be forwarded to every returning officer who shall be hereafter named and appointed for any ensuing general or special election, together with the writ of election that shall be addressed to him.

5. ELECTIONS, CONTROVERTED.

48 Gen. III. An Act to regulate the trial of controverted elections or returns
 Cap. 21. of Members to serve in the House of Assembly of Lower Canada.

Preamble.

No petition to be received unless within fourteen days after the meeting of the assembly. To be signed by at least ten electors.

See Tables.

A time to be fixed for considering the complaints.

Proviso.

Proviso.

WHEREAS it is necessary that provision be made for regulating the trial of controverted elections or returns of members to serve in the house of assembly of this Province :—Be it therefore enacted, &c., that after the end of the present session of the provincial parliament, no petition complaining of an undue election or return of any member to serve in the house of assembly in this Province, shall be receivable, unless the same be presented to the house within fourteen days after the first meeting of the legislature, ensuing the election or return complained of, and also, unless such petition be signed by at least ten electors of the county, city, town or borough in which the election shall have been had, or if from an unsuccessful candidate, shall be supported either in the same or a distinct petition, by the signatures (or marks certified by two witnesses,) of at least ten such electors; and every such petition shall state the grounds and reasons of complaint; and in case the house of assembly shall think such grounds and reasons (if true) sufficient to make the election void, a day and hour shall, by the said house, be appointed for taking the same into consideration, so that the space of twenty days at least shall always intervene between the day of presenting such petition, and the day appointed by the house for taking the same into consideration; and notice thereof, in writing, shall be forthwith given by the speaker to the petitioners, (who shall by themselves, or some one of them, their counsel or agent, attend at Quebec, for the purpose of being served with such notice,) and also to the sitting member, with an order to them to attend and be heard at the bar of the house at the time appointed, either in person or by their counsel or agents; and such notice and order shall also be inserted, by order of the speaker, in the Quebec Gazette : Provided always, that such petition may be taken into consideration at an earlier day, if the parties shall consent thereto : Provided also, that the house may alter the day and hour so appointed for taking such petition into consideration, and appoint some subsequent day and hour for the same, as occasion may require, giving to the respective parties the like notice of such alteration, and order to attend on the said subsequent day and hour as aforesaid :

Provided further, that whensoever the matters contained in such petition, as *Provido* above said, cannot be fully heard, tried and adjudged, at the same session of assembly in which the same were begun, that the same may be continued and taken up, heard and adjudged upon, at the next meeting of the house of assembly, in the same manner as if no prorogation had taken place.

II. And in order to prevent frivolous and vexatious petitions: Be it further enacted, &c., that before any petition against an election, as above said, shall be brought up, or proceeded upon, in the house of assembly, a recognizance shall be entered into before the speaker of the house of assembly, or before one of the justices of the court of King's bench, or provincial judge of the district, according to the form expressed in the schedule hereunto annexed, to wit, the petitioning candidate in the sum of thirty pounds, and two other petitioners in the sum of fifteen pounds each, and conditioned, that the petitioners will appear and prosecute such petition, and will pay to such person or persons as may be thereby aggrieved, such sum and sums of money as the house of assembly may award for costs and expenses, that the parties, or any of them, against whom the said petition shall have been made, may be put to by reason of the said complaint, if the same should be adjudged frivolous and vexatious, or not founded on grounds sufficient to justify the petitioners in having made the same: Provided always, that such recognizance as is hereinbefore required, if taken before any such justice of the court of King's bench, or provincial judge, as aforesaid, shall, by such justice or judge, be certified and transmitted to the speaker of the house of assembly, so soon after the same shall be taken as may be, and that no proceedings shall be had upon any such petition as aforesaid, until such recognizance shall be so certified and transmitted unto the said speaker, in manner aforesaid.

Before a petition can be brought up or proceeded upon, a recognizance to be entered into before the speaker of the assembly, or justice of judge.

See Tables.

III. And be it further enacted, &c., that in the event of the election or return complained of being declared void, then, and in such case, the petitioners shall recover from the sitting member, whose election or return shall be so declared void, (provided such voidance arises from any act done by or with the knowledge and consent of such sitting member,) the costs and expenses awarded as above, that they or any of them shall have been put to in prosecuting their complaint; and in all cases of costs and expenses so awarded by the house, the speaker shall give a certificate thereof, and the same, if refused to be paid, shall be recoverable by action of debt, in the court of King's bench, or provincial court of the district or inferior district, wherein the parties refusing to pay, may respectively reside.

In the event of the election or return being declared void, the petitioners entitled to costs and expenses.

IV. And be it further enacted, &c., that the petitioners complaining of any election or return, shall deliver to the clerk of the house of assembly, within a reasonable time, to be established by the house, before the day fixed as aforesaid, for hearing the merits thereof, a list of such witnesses as they mean to produce on the trial; and the sitting member shall do the like; and it shall be lawful for the speaker of the house of assembly, and he is hereby empowered and required, by warrant under his hand and seal, directed to such person or persons as by him shall be specially appointed, to summon and require the attendance of the witness or witnesses, in such lists named, at the day and hour fixed for trial, to give evidence thereon, such day and hour to be mentioned in the said warrant; and it shall be incumbent upon the person or persons, at whose instance a witness is summoned, and before it shall be obligatory upon such witness to attend according to such summons, to advance to the said witness, if by him required, a rea-

Manner in which petitioners complaining of any election or return are to proceed.

sonable number of day's expenses at the rate of two shillings and six pence per day, and also one shilling per league, in going from and returning to his place of residence.

Manner in which the assembly is to proceed when the petition is to be taken into consideration.

V. And be it further enacted, &c., that at the time appointed for taking such petition into consideration, and after reading the order of the day for that purpose, the house shall be cleared, and the speaker, with the members thereof (excepting the member or members whose election shall be contested,) shall be sworn at the table, well and truly to try the matter of the petition referred to them, and a true judgment give according to the evidence; the speaker shall then take the chair, the doors shall be opened, and the petitioners, their counsel or agent, shall attend at the bar.

Witnesses to retire without the house, &c.

VI. And be it further enacted, &c., that the witnesses for the petitioners and for the sitting member shall be ordered by the speaker to retire without the house; and the petitioners, their counsel or agent, shall call their witnesses in, one by one, for examination; and each and every witness as aforesaid, shall be sworn at the bar of the house, before giving his evidence.

Sitting member to make his defence and his witnesses to be examined and sworn.

VII. And be it further enacted, &c., that after the witnesses for the petitioners shall have been examined, and all other evidence offered and allowed on their behalf gone through, the sitting member or members shall be required by the speaker to make a defence, and the witnesses for the said sitting member or members shall be separately called in for examination, and shall be sworn in manner aforesaid: Provided always, that whenever any member of the house shall be a witness, he shall not be obliged to retire as aforesaid, but shall be sworn in his place.

Proviso.

Assembly empowered to appoint commissioners.

See Tables.

Commissioners to take an oath.
The oath.

VIII. Provided always, and be it further enacted, &c., that in cases wherein it shall appear that the expense of bringing witnesses to the bar would be considerable, it shall and may be lawful to and for the house of assembly to nominate and appoint three commissioners, (one of whom shall be chairman,) for the purpose of examining the witnesses of the parties, at such time and at such place or places as in such reference shall be appointed; and the said commissioners shall, before proceeding on the business of their said commission, take and subscribe the following oath, that is to say; "I, A. B. do swear, that I will, without favour or affection or malice, and according to the best of my skill and knowledge, well and duly perform the duty of a commissioner appointed to hear and examine the evidence which shall be brought before me by virtue of a reference, under the hand and seal of the speaker of the house of assembly, upon a petition, (*here mention the names of the petitioners or some of them,*) according to the rules, regulations and directions contained in an act passed in the forty eighth year of the reign of King George the Third, intituled, *An act to regulate the trial of controverted elections or returns of members to serve in the house of assembly of Lower Canada;*" which oath the said chairman of the said commissioners, having first taken and subscribed the same in the presence of the others, is hereby authorized and empowered to administer to the said other commissioners; and such commissioners shall sit every day, (Sundays and holy-days excepted,) from the hour of ten in the morning, till four in the afternoon, and shall not adjourn for any longer time than twenty-four hours, except in case of the death, sickness or unavoidable absence of one or more thereof, or except in case of removal to another place of meeting: and the said commissioners shall have authority and are hereby empowered to appoint a clerk, to take down

Duty of the commissioners.

A clerk to be appointed and

in writing, minutes of all their proceedings, in an accurate manner, and of to be sworn. all such evidence as shall be given or produced before them, and the oppositions to such evidence ; which said clerk shall be by them duly sworn so to do ; and they shall proceed in examining upon oath, (which oaths they are hereby authorized to administer) all and every witness or witnesses in the above mentioned lists, who shall come before them ; and the said clerk shall make, or cause to be made, true copies of all such proceedings and evidence, and shall give one such copy to each of the parties interested, or his or their agent, if the same shall be demanded, on being paid for every hundred words contained in the said copy, the sum of six pence ; and within ten days after the evidence before the said commissioners shall be closed, the said commissioners, or any two of them, shall cause a copy of the minutes of all their proceedings and of the evidence to be made, and shall compare the same with such minutes, and then sign and seal such copy, and shall transmit the said copy, so certified, to the speaker of the house of assembly, who shall, accordingly, communicate the same to the said house.

Copy of the proceedings to be transmitted to the speaker of the assembly

IX. And be it further enacted, &c., that after a copy of the said proceedings and evidence and objections to the said evidence shall be received by the said speaker, the said house shall appoint a day, for taking such proceedings, evidence and opinions of the said commissioners, into consideration, and shall, on such day proceed to try and determine the merits of the said petition, in such manner, as the house of assembly are to proceed upon other controverted elections, save and except, that the said house shall not call for, or receive any other or further evidence written, but the house shall determine on all such matters and things from the written minutes of the proceedings and evidence, before the said commissioners, signed, sealed, certified, and by them transmitted as aforesaid, being first duly sworn before they shall proceed to take the merits of the same into consideration, on the day that shall have been so fixed : Provided always, that the said house, shall be at liberty to hear counsel, for each of the parties.

House to appoint a day for proceeding.

May hear counsel.

X. And be it further enacted, &c., that the said commissioners shall be, and hereby are empowered, by warrant under the hand and seal of their chairman, or of any two of them, directed to such person or persons as by him or them shall be specially appointed, to summon and require the attendance of the witness or witnesses, in the lists hereinbefore mentioned, at the day and hour and place fixed, to give evidence thereon, which day and hour and place shall be mentioned in the said warrant, and every person so summoned to appear and give evidence, who shall refuse or neglect to appear, (a reasonable number of days expenses being first advanced to him, if required, at the rate of two shillings and six pence per day, and also one shilling per league, for each and every league, in going from and returning to his place of residence) or appearing, shall refuse to be sworn or give evidence before the said commissioners, unless in cases of reasonable excuse, to be allowed of by the said commissioners, or who shall be guilty of any contempt, or improper behaviour towards the said commissioners, while sitting in the execution of their commission, shall, each, forfeit and pay a sum, not exceeding twenty pounds, current money of this Province ; and such penalty shall be recoverable before any two of His Majesty's justices of the peace, who are hereby authorized and required to hear and determine the same, in a summary manner, either by voluntary confession of the party or parties accused, or upon the oath of one or more credible witness or witnesses, other than the prosecutor ; and in case of non-payment of such pe-

Commissioners empowered to summon witnesses.

Penalty on persons refusing to appear, or to be sworn, &c.

Penalties how recoverable.

nalties, after conviction thereof, the same shall be levied by distress and sale of the offender's goods and chattels, by warrant, under the hand and seal of such justices directed to any peace officer, and the overplus of the money so levied, (if any there be,) after deducting the penalty and reasonable costs, shall be returned to the owner ; and the one half of such penalties shall be paid to the prosecutor, and the other half into the hands of the justices before whom the conviction shall have been had, to be by them transmitted to His Majesty's receiver general, for the use of His Majesty, to be applied towards the support of the government of this Province, and shall be accounted for to His Majesty, through the commissioners of His Majesty's treasury for the time being, in such manner and form as His Majesty shall direct.

And how applied.

Commissioners and clerk allowed a certain pay per day.

XI. And be it further enacted, &c., that the said commissioners shall, each of them, be entitled to demand and receive, for their services, the sum of fifteen shillings, and the clerk of the said commissioners ten shillings, for every day which they respectively shall have duly attended, during the execution of the said commission, and ten shillings only for every day, which they respectively shall have been necessarily engaged in travelling from and to his or their usual place of residence, to or from the place or places of the meeting of the said commissioners and the said clerk ; which said several sums shall be paid to them, respectively, by the persons who entered into recognizances as above said, or any of them, upon a certificate, under the hand of the speaker of the house of assembly, stating the sum or sums so payable, being to him or them produced.

Clerk or clerk assistant of the assembly to administer oaths.

XII. And be it further enacted, &c., that the oaths by this act directed to be taken, (those of the said commissioners and of their respective clerk and of the witnesses brought before them excepted,) shall be administered by the clerk of the house of assembly, or in his absence by the clerk assistant, who is, and each of them are hereby authorized to administer the same ; and that any person who shall be guilty of wilful and corrupt perjury, in any evidence which he shall give, before the said house, or before the said commissioners, in consequence of the oath which he shall have taken by the directions of this act, shall, on conviction thereof, incur and suffer the like pains and penalties, to which any person convicted of wilful and corrupt perjury, is liable by law.

Penalty for taking a false oath.

Sitting member, whose election is contested, incapable of voting.

Proviso.

XIII. And be it further enacted, &c., that no sitting member, whose election shall be contested as aforesaid, shall vote upon any question which shall arise in the course of the trial or upon the decision thereof : Provided always, that no such decision shall be had, nor any question touching elections be proposed, unless there be a quorum of the house present, and no member shall have a vote upon such decision, who shall not have attended during the examination of the witnesses, who shall have been heard before the house themselves, and the hearing of the parties by themselves or their counsel.

Petitioners and sitting members to interchange lists.

XIV. And be it further enacted, &c., that the petitioners against an election or return, and the sitting member or members, shall, in a reasonable time, to be fixed by the house of assembly, before the trial be proceeded upon, interchange with each other, lists of the names of all such votes and voters to which either of the said parties intend to object before the said house, and the grounds of their objections thereto, and of all such other matters and things as either of the said parties mean to insist upon or contend for, or to object to, before the said house.

XV. And be it therefore enacted, &c., that in all cases of non-payment of costs and expenses, incurred upon the trial of contested elections, before the house of assembly, as also of the allowances to the said commissioners, and their clerk, the same shall and may be, respectively, recovered by the parties entitled thereto, by action of debt against the persons, respectively, entering into recognizance as aforesaid, or against the sitting members, respectively, according as the case may be, in the court of King's bench, or other court where debts of like amount are recoverable; in which action, it shall be sufficient for the plaintiff or plaintiffs to declare, that the defendant or defendants is or are indebted to him or them in the sum mentioned in the certificate of the speaker of the house of assembly, by virtue of this act; and the said respective certificates of the said speaker, shall be deemed full and sufficient evidence and support of such action of debt; and the party or parties in whose favour judgment shall be given, in any such action, shall recover his or their costs.

SCHEDULE.

FORM OF A RECOGNIZANCE to be entered into before any petition against an election or return of a writ of election, can be proceeded upon.

Be it remembered that on the _____ day of _____ in the _____ year of our Lord _____ before me A. B. (speaker of the house of assembly) came C. D. of _____ and E. F. of _____ and G. H. of _____ and severally acknowledged themselves to owe the following sums; that is to say, the said C. D. the sum of _____ and the said E. F. and G. H. the sum of _____ each, to be levied on their respective goods and chattels, lands and tenements, to the use of our Lord the King, His Heirs and Successors, or to the use of the parties who may appear to be aggrieved by a petition, about to be presented to the house of assembly, against the regularity of a certain election, held in the _____ for a representative to serve in the said assembly, (*or against the return, as the case may be,*) in case the said C. D. shall fail in performing the conditions hereunder mentioned.

The condition of this recognizance is, that if the said C. D. shall duly appear before the said house of assembly, at such time or times as shall be fixed by the said house of assembly, for taking into consideration a petition, signed by the said C. D. and divers other persons, complaining of, (*here specify the complaint, whether for an undue election or an undue return, or for want of a return, that no return has been made upon an election concluded,*) for the county, town or borough of _____ and shall appear before the said house, for trial of the said petition, and if necessary at every subsequent sessions of this present assembly, and follow up the same, until a final determination thereupon, or until the same shall have been withdrawn by permission of the said house of assembly, and shall also pay such costs as the said house of assembly shall resolve and adjudge to be paid to any person or persons aggrieved by the said petition, then this recognizance to be void, otherwise to be and remain of full force and effect.

Taken and acknowledged before me, in pursuance of an act passed in the 48th year of His Majesty, Geo. III. cap. _____

C. D. (L. S.)
E. F. (L. S.)
G. H. (L. S.)

58 Geo. III. **An Act to facilitate the trial of controverted elections, or returns**
 Cap. 5. **of Members to serve in the House of Assembly.**

Preamble. **W**HEREAS by an act passed in the forty-eighth year of His Majesty's reign, intituled, *An act to regulate the trial of controverted elections, or returns of members to serve in the house of assembly of Lower Canada*, it is enacted and provided, that in cases wherein it shall appear that the expense of bringing witnesses to the bar would be considerable, it shall and may be lawful to and for the house of assembly to nominate three commissioners for the purpose of examining the witnesses : And whereas it would materially tend to facilitate and expedite the public business, if it were enacted that it should be lawful to and for the house of assembly, in all trials of controverted elections, or returns of members to serve in the house of assembly, to nominate and appoint three commissioners or a special committee for the purposes aforesaid :—Be it therefore enacted, &c., that from and after the passing of this act, it shall and may be lawful for the house of assembly, in all trials of controverted elections, or returns of members to serve in the house of assembly of this Province, to nominate and appoint three commissioners (one of whom shall be chairman) for the purpose of examining the witnesses of the parties interested in such trial ; which commissioners shall proceed in the manner provided in and by the said first above mentioned act.

The assembly authorized to appoint three commissioners to examine witnesses.

The assembly may appoint a committee to examine witnesses.

The chairman of the committee to administer oaths.

The members and clerk of the said committee to take an oath, and to report.

Penalty for wilful perjury.

II. And be it further enacted, &c., that it shall and may be lawful, in all cases of controverted elections, to examine and take the testimony of all and every witness or witnesses which shall or may be produced by the parties, before any special committee of the house of assembly, which may be by the said house of assembly appointed for that purpose ; and the chairman of such committee shall be, and he is hereby authorised and empowered to administer to the said witnesses the oaths required by the said first mentioned act ; and the members of the said committee, and the person acting as clerk to the said committee, shall, before examining such witnesses and taking their testimony, take the oaths required to be made and taken by the eighth clause of the said act first hereinbefore mentioned ; and it shall be the duty of such committee to report, with all convenient speed, to the said house of assembly, the testimony which they shall have taken touching and concerning the affair in question.

III. And be it further enacted, &c., that any person who shall be guilty of wilful and corrupt perjury, in every evidence which he shall give before the commissioners appointed in virtue of this act, or before any special committee appointed in virtue of the same, in consequence of any oath which he shall have taken in virtue of this act, shall, on conviction thereof, incur and suffer the like pains and penalties to which any person convicted of wilful and corrupt perjury, is liable by law.

5 Geo. IV. **An Act to continue for a further limited time and amend certain**
 Cap. 32. **Acts therein mentioned, relating to the trial of controverted elections of Members to serve in the Assembly of this Province.**

Preamble. **W**HEREAS it is expedient further to continue for a limited time, and amend certain acts hereinafter mentioned ; that is to say, an act passed in the forty-eighth year of His late Majesty's reign, intituled, *An*

act to regulate the trial of controverted elections or returns of members to serve in the house of assembly of Lower Canada, and also, an act passed in the fifty-eighth year of His late Majesty's reign, intituled, *An act to facilitate the trial of controverted elections or returns of members to serve in the house of assembly*, the duration of which is limited to the first day of May, one thousand eight hundred and twenty-five :—Be it therefore enacted, &c. (*Mere continuing clause. Effete—See tables.*)

II. And whereas it is necessary to remove all doubts concerning the recognizance by law required of persons petitioning against any election of a member or members to serve in the assembly, and to increase the amount for which recognizance shall, in such case, be required :—Be it therefore declared and further enacted, &c., that the security or recognizance required by the second clause or section of an act passed in the forty-eighth year of the reign of His late Majesty, intituled, *An act to regulate the trial of controverted elections or returns of members to serve in the house of assembly in Lower Canada*, shall be required and given, whether the person or persons petitioning against the election have been a candidate or candidates or not, that is to say, a recognizance for the sum of one hundred pounds, current money of this Province, shall, for the ends and purposes specified in the said act, and to answer and pay all costs that may be awarded by the house of assembly against the petitioners, be required and taken from two persons being freeholders, each for the sum of fifty pounds, currency, and which recognizance shall be in the form prescribed in the schedule hereunto annexed, and shall be given before the petition complaining of the election is presented.

The recognizance required by 48 Geo. 3. Cap. 21, to be given whether the petitioner against the election has been a candidate or not.

Amount.

III. Provided always, and be it further enacted, &c. that every surety who shall have paid any sum of money, in execution of such recognizance shall be entitled to obtain the reimbursement of the said sum, as well by his co-obligee as by the other petitioners, *minus* the share and portion of the said surety as one of the petitioners, in case such surety shall be one of the said petitioners.

Surety may obtain a reimbursement.

SCHEDULE.

FORM OF A RECOGNIZANCE to be entered into before any petition by any person or persons against an election, or return of a writ of election can be proceeded upon.

" Be it remembered that on the _____ day of _____
 " in the year of our Lord _____ before me, A. B. (speaker of The recogni-
 " the house of assembly,) came C. D. of _____ and E. F. of _____ zance.
 " who severally acknowledged themselves to owe the
 " following sums, that is to say, the said C. D. the sum of fifty pounds,
 " currency, and the said E. F. the sum of fifty pounds, currency, to be le-
 " vied on their respective goods and chattels, lands and tenements, to the
 " use of our lord the King, His Heirs and Successors, or to whomsoever it
 " shall appertain, in consequence of a petition to the house of assembly
 " against the regularity of a certain election, held in the _____ for a
 " representative to serve in the said assembly, (*or against the return, as the*
 " *case may be,*) in case the conditions hereunder mentioned shall not be
 " complied with.

" The condition of this recognizance is, that if the persons so petitioning
 " shall duly appear before the said house of assembly, at such time or times
 " as shall be fixed by the said house of assembly, for taking into considera-

"tion their petition, complaining of (*here specify the complaint, whether for an undue election or an undue return, or for want of a return, that no return has been made upon an election concluded,*) for the county, (town or borough) of _____ and shall appear before the said house, for trial of the said petition, and if necessary at every subsequent session of the present assembly, and follow up the same until a final determination thereupon, or until the same shall have been withdrawn by permission of the said house of assembly, and shall also pay such costs as the said house of assembly shall resolve and adjudge to be paid to any person or persons aggrieved by the said petition, then this recognizance to be void, otherwise to be and remain in full force and effect.

" C. D.

" E. F.

" Taken and acknowledged before me, in pursuance of an act passed in the _____ year of His Majesty, George the Fourth, chapter _____."

9 Geo. IV.
Cap. 61.

An Act to amend and further to continue, for a limited time, an Act passed in the fifth year of His Majesty's reign, intituled, *An Act to continue, for a limited time, and amend certain Acts therein mentioned relating to the trial of controverted elections of Members to serve in the Assembly of this Province.*

Preamble.

5 G. 4. c. 32.

Continued.

WHEREAS it is expedient still further to continue for a limited time and amend an act passed in the fifth year of His Majesty's reign, intituled, *An act to continue for a further limited time and amend certain acts therein mentioned, relating to the trial of controverted elections of members to serve in the assembly of this Province,* the duration whereof is limited to the first day of May, one thousand eight hundred and twenty-nine:—Be it therefore enacted, &c., that the said act, &c., (*Mere continuing clause. Effete.—See tables.*)

The qualification of the electors signing a petition under 48 Geo. 3. Cap. 21, to be ascertained by their oath before a justice of the peace, under certain penalties in the case of perjury.

II. And be it further enacted, &c., that the due qualification of the ten electors signing a petition in which complaint shall be made of the undue election or return of any member to serve in the assembly of this Province, under the provisions of an act of the provincial legislature passed in the forty-eighth year of the reign of His late Majesty King George the Third, chapter twenty-one, intituled, *An act to regulate the trial of controverted elections or returns of members to serve in the house of assembly of Lower Canada,* shall be ascertained by the oath of such electors before one justice of the peace (which oath such justice of the peace is hereby empowered to administer) in the same form, and under the same penalties in case of perjury, as the oath of qualification required from electors previously to their voting as such at any election by the sixteenth section of an act of the provincial legislature, passed in the fifth year of His Majesty's reign, intituled, *An act to repeal certain acts therein mentioned, and to consolidate the laws relating to the election of members to serve in the assembly of this Province, and to the duty of returning officers, and for other purposes*; and that a certificate thereof, under the hand and seal of the justice of the peace by whom such oath shall have been administered, shall be affixed to every such petition before it is received by the assembly of this Province.

The certificate to be affixed to the petition before it is received.

III. And whereas doubts have arisen as to the persons before whom the said security may be given; be it therefore declared and enacted, &c., that the said security may be given before the speaker of the house of assembly of this Province, or before any justice of the court of King's bench, or provincial judge of the district; any law, custom or usage to the contrary notwithstanding.

Before whom
the security
may be given.

IV. And be it further enacted, &c., that the persons offering themselves as sureties for the costs that may be awarded by the house of assembly in any case of controverted election, under the provisions of the act first above mentioned and hereby further continued, shall, before they are accepted as such, justify their sufficiency before any judge of the court of King's bench or provincial judge of any district of this Province; and that a certificate thereof, under the hand and seal of the justice or provincial judge before whom it shall have been made, shall be affixed to the petition to which the same may have reference, before such petition shall be received by the assembly of this Province.

Sureties for the
costs, to justify
their sufficiency.

Certificate to
be affixed to
the petition.

6. JEWS, POLITICAL RIGHTS OF.

An Act to declare persons professing the Jewish religion, entitled to all the rights and privileges of the other subjects of His Majesty in this Province.

1 Will. IV.
Cap. 57.

WHEREAS doubts have arisen whether persons professing the Jewish religion are, by law, entitled to many of the privileges enjoyed by the other subjects of His Majesty within this Province:—Be it therefore declared and enacted, &c., that all persons professing the Jewish religion being natural born British subjects inhabiting and residing in this Province, are entitled and shall be deemed, adjudged and taken to be entitled to the full rights and privileges of the other subjects of His Majesty, His Heirs or Successors, to all intents, constructions and purposes whatsoever, and capable of taking, having or enjoying any office or place of trust whatsoever, within this Province.

Preamble.

Jews to be en-
titled to all the
civil rights of
British sub-
jects.

7. ALIENS, NATURALIZATION OF.

An Act to secure to and confer upon certain inhabitants of this Province, the civil and political rights of natural born British subjects.

1 Will. IV.
Cap. 53.

WHEREAS it is expedient to remove, by law, doubts that may have arisen as to the civil rights and titles to real estate of some of the persons hereinafter mentioned, and to provide by some general law for the naturalization of such persons, not being by law entitled to be regarded as natural born subjects of His Majesty, as are actually domiciled in this Province:—Be it therefore enacted, &c., that all persons who have at any time received grants of land in this Province from the Crown, and all persons who have held any public office in the Province under the great seal of the Province, or under the seal at arms and sign manual of the Governor, Lieutenant-Governor, or person administering the government

Preamble.

See Tables.

Certain per-
sons entitled to
the privileges
of British
birth, and may
hold real estate

as if born in the Kingdom of Great Britain and Ireland.

of the Province, and all persons who have taken the oath of allegiance, or being of the persons who by the laws of this Province are allowed to affirm in civil cases, have made the affirmation of allegiance to His Majesty, or His Majesty's Predecessors, before any person duly authorized to administer such oath or affirmation, and all persons who had their settled place of abode in this Province before the year of our Lord, one thousand eight hundred and twenty-three, and are still resident therein, shall be, and are hereby admitted and confirmed in all the privileges of British birth, and shall be deemed, adjudged and taken to be, and so as respects their capacity at any time heretofore, to take, hold, possess, enjoy, claim, recover, convey, devise, impart or transmit any real estate in the Province of Lower Canada, or any right, title, privilege or appurtenance thereto, or any interest therein, to have been natural born subjects of His Majesty, to all intents, constructions and purposes whatsoever, as if they, and every of them, had been born in His Majesty's United Kingdom of Great Britain and Ireland; and that the children or more remote descendants of any person or persons of either of the foregoing descriptions, who may be dead, shall be, and are hereby admitted to the same privileges which such parents or ancestors, if living, could claim under this act: Provided nevertheless, that none (except females) of either of the above descriptions of persons who has not taken the oath, or being of those persons who are allowed by the laws of this Province to affirm in civil cases, has not made the affirmation of allegiance before some person duly authorized to administer the same, shall be entitled to the benefits of this act, unless he shall take the said oath or affirmation (as the case may be) before some person duly authorized to administer the same.

Proviso.

Persons actually domiciled in this Province on the 1st March, 1831, not being of the description of persons before mentioned, and who may have resided seven years in this Province or in any of His Majesty's dominions, to be considered as of natural born subjects

Proviso.

II. And be it further enacted, that all persons actually domiciled in this Province, on the first day of March, one thousand eight hundred and thirty one, not being of either of the descriptions of persons before mentioned, who shall have resided or shall continue to reside therein, or in some other part of His Majesty's dominions, until they shall have been resident inhabitants of His Majesty's dominions for the space of seven years continually, without having been during that time stated residents in any foreign country, shall be deemed and adjudged and taken to be, and so far as respects their capacity at any time heretofore, to take, hold, possess, enjoy, claim, recover, convey, devise, impart or transmit any real estate in this Province, or any right, title, privilege or appurtenances thereto, or any interest therein, to have been natural born subjects of His Majesty, to all intents, constructions and purposes whatsoever, as if they, and every of them, had been born within this Province: Provided nevertheless, that no one of the persons described in this clause (except females) who, at the passing of this act, has been resident in His Majesty's dominions seven years continually, as aforesaid, shall be entitled to the benefits of this act, unless within three years from and after the passing of this act, if at the said passing of the act he shall be of the age of eighteen years or upwards, (or if he shall not at the said passing of the act be of the said age, then within three years after he shall attain the said age,) he shall take and subscribe the oath in the schedule to this act annexed, marked (A.), or being of those persons who are allowed by the laws of this Province to affirm in civil cases, shall make affirmation to the same effect before the clerk of the peace of some district, or the registrar, or his deputy or clerk, of some county in this Province; and that no one of the persons described in this clause, who has not been resi-

dent as aforesaid, seven years continually in His Majesty's dominions, shall be entitled to the benefits of this act, unless, within three years after he shall have completed a stated residence of seven years continually as aforesaid, in His Majesty's dominions, (if at the completion of such residence he shall be of the age of eighteen years or upwards, or if at that time not of that age, then within three years after he shall have attained that age) he shall take and subscribe such oath or make such affirmation.

III. And be it further enacted, that any person who shall wilfully swear falsely or make false affirmation, in making the said oath or affirmation before the clerk of the peace, or such registrar, his deputy or clerk, under the provisions of this act, shall be deemed guilty of wilful and corrupt perjury; and that every such person shall, on conviction thereof, forfeit all the privileges and advantages which he would otherwise by such oath or affirmation have been entitled to under this act; but that the rights of others in respect to estates derived from, or held under such persons, shall not be hereby prejudiced.

Penalty on persons swearing falsely.

IV. And be it further enacted, that the clerk of the peace of each and every district, or the registrar or his deputy or clerk, in each county in this Province, shall administer the oath or affirmation by this act required, to any person above the age of eighteen years, who shall desire to take the same, and shall keep books of registry, in the beginning of which shall be written the oath or affirmation required by this act, and which shall contain the columns and the specifications described in the second schedule to this act annexed, marked (B.); and that in the column appointed for that purpose, the person making the oath or affirmation shall set his signature, or if unable to write, his mark, in the same line of the register in which entry is made of the name and description of such person.

Clerk of the peace, &c. to administer the oath, and keep books of registry.

V. And be it further enacted, that duplicate books of such registry shall be kept, both of which being original, shall contain the actual signatures or marks of the person subscribing; and that on or before the thirty-first day of December, in each and every year, the clerk of the peace and the registrar, his deputy or clerk, shall transmit one of the said originals to the secretary of the Province for the time being; and that the books of registry shall remain and be preserved as public records in the said offices respectively.

Duplicate books of registry to be kept: both to be original.

VI. And be it further enacted, that if from any casualty or otherwise, either of such original registers, or any part thereof, shall be lost or destroyed, it shall be supplied by a copy taken from the other original of such register remaining in the office of the clerk of the peace, registrar of the county, or secretary of the Province, (as the case may be,) and attested as a true copy upon the oath of the officer having custody of the same, made before any commissioner for taking affidavits in the court of King's bench; which copy, so attested, shall be regarded to all intents and purposes as the original register.

If either of the original registers is lost, a copy to be taken from the original remaining in the office of the clerk, &c.

VII. And be it further enacted, that a copy or extract from any book of registry made under the authority of this act, of the whole entry made in such register, with respect to any person whose name is recorded therein, certified by the clerk of the peace, registrar, or the secretary of the Province, for the time being, or their respective deputy or deputies, shall be deemed and taken to be sufficient evidence of the naturalization of the person therein described.

Extract of entry, certified by the clerk of the peace, &c. to be evidence.

Clerk of the peace, &c. in transmitting books of registry to verify the same on oath.

VIII. And be it further enacted, that whenever any clerk of the peace or registrar, or his deputy or clerk, shall transmit any book of registry to the secretary of the Province, as hereinbefore provided, he shall, at the end of such book of registry, verify the same on oath, to be taken before some one of His Majesty's justices of the peace, in which the said clerk of the peace, registrar, or his deputy or clerk, shall severally depose that to the best of his knowledge and belief, such book of registry forms a true and correct record of the statements made to him by the several persons therein described, and which they severally verified by oath or affirmation taken before him or them.

After the 1st January, 1850, no further oath to be administered.

IX. And be it further enacted, that after the first day of January, in the year of our Lord, one thousand eight hundred and fifty, no further oaths shall be administered or proceedings had, for the purpose of being naturalized under this act.

Penalty on the clerks of the peace, &c. neglecting their duties.

X. Provided always, and be it further enacted, that if any person to whom it shall belong to attest the truth of any such record, shall neglect or omit to attest the same in the manner aforesaid, he shall forfeit and pay the sum of twenty-five pounds, current money of this Province, to be recovered by information in His Majesty's court of King's bench; but such omission shall not prejudice the right of any person who may have taken the oath or made the affirmation required by this act, or preclude him from receiving a certificate or extract, according to the provisions thereof.

An alphabetical list of the names, &c. recorded in the books of registry, to be kept, &c.

XI. And be it further enacted, that a general alphabetical list shall be made and kept by the secretary of this Province, and by the several clerks of the peace, registrars or their deputies or clerks, of the surnames and christian names of all persons whose names and descriptions are recorded in the several books of registry, referring to their place in such books respectively; and that such books and lists shall be open at all times to inspection, during the hours of business in such office; and that any person desirous of searching in the said list or books, shall pay to the officer keeping the same, one shilling currency, for each person whose name he shall desire to search for.

Fees allowed to the clerks of the peace, &c. for copies of entries, &c.

XII. And be it further enacted, that for administering the oath or affirmation as aforesaid, making the entry required by this act, and giving a certified copy or extract of such entry, the clerk of the peace, the registrar or his deputy or clerk, shall be entitled to demand and recover from every person making such oath or affirmation, the sum of five shillings currency; and that the clerk of the peace, or registrar, or his deputy or clerk, and the secretary of the Province, shall be entitled to demand and receive, for searching and giving such extract at any other time, the sum of one shilling, currency; and that no more or other fees than are expressly allowed by this act, shall be demanded or received for any services done under this act, by any of the officers above named.

Persons domiciled in this Province and dying before the period of taking the oath.

XIII. And be it further enacted, that if any person, not entitled to be regarded as a natural born subject of His Majesty, who, at the time of the passing of this act, was domiciled in this Province, shall die before the period limited by this act for his taking the oath, according to the provisions thereof, such person shall be, nevertheless, deemed to have been a natural born subject of His Majesty, so far as regards the taking, holding, imparting and transferring of any real estate by sale, grant, marriage, dower, devise or inheritance.

XIV. And be it further enacted, that from and after the passing of this act, no person shall be disturbed in the possession, or shall be precluded from the recovery of any lands, tenements or hereditaments in this Province, on the ground of his or her being or having been an alien, or on the ground of any person from or through whom he or she may claim, being or having been an alien; provided the person, against whom such disability shall be so objected, was a resident in this Province on the first day of January, in the year of our Lord, one thousand eight hundred and twenty-eight, and was then actually under the age of eighteen years.

No person to be disturbed in possession of any lands on the ground of having been an alien, &c.

Proviso.

XV. And be it further enacted, that in all cases where any person, claiming to hold as next entitled on account of any person nearer in the line of descent having been an alien, shall, in virtue of such claim, have taken actual possession of any real estate before the said first day of January, one thousand eight hundred and twenty-eight, and have made improvements thereon,—and also, in all cases where any person, claiming to hold as next entitled on account of the person nearer in the line of descent having been an alien, shall have actually contracted to sell or depart with his real estate, before the said first day of January, one thousand eight hundred and twenty-eight, no person being at that time in adverse possession of the same, the provisions of this act shall not extend to render invalid any right or title to such estate; but such right or title shall be taken and adjudged to be as if this act had not passed.

Persons claiming to hold on account of any person nearer in the line of descent having been an alien.

(A.)

“I do swear, (or being one of the persons allowed by law to affirm in civil cases, do affirm,) that I have resided seven years in His Majesty’s dominions, without having been, during that time, a stated resident in any foreign country; and that I will be faithful and bear true allegiance to the Sovereign of the United Kingdom of Great Britain and Ireland, and of this Province as dependant thereon.”

Form of the oath.

(B.)

Name.	Present Residence.	Addition, degree or occupation.	Signature.	Date of Registry.	Number of Entry.

8. INDIAN RESERVATIONS, POLITICAL RIGHTS OF INHABITANTS OF.

An Act to extend to the inhabitants of the Indian Reservation of Saint Regis and Dundee, the rights, privileges, and advantages enjoyed by the other inhabitants of this Province.

WILL. IV.
Cap. 39.

WHEREAS doubts have arisen whether certain acts, passed by the provincial parliament, for the benefit of the inhabitants of the several townships of this Province, extend to the inhabitants of the “Indian

Preamble.

All the benefits and advantages conferred by the laws of this Province, extended to the inhabitants of the township of Dundee.

reservation of Saint Regis and Dundee," and it is expedient to remove the inconvenience arising from the existence of such doubts :—Be it therefore declared and enacted, &c., that the tract of land heretofore known by the name of " the Indian reservation of Saint Regis and Dundee," or " the Indian lands," that is to say, all that tract of country included between lake Saint Francis, the Province line, and the township of Godmanchester, in the district of Montreal, shall be hereafter known and designated by the name of " the township of Dundee ;" and that all the benefits and advantages, conferred by the laws of this Province on the inhabitants of the townships therein, as to the appointment of commissioners for the summary trial of certain small causes, and of justices of the peace, the benefit of the acts passed for the encouragement of education, and of all other acts of a similar nature, and generally all the civil rights, privileges and advantages, enjoyed by the inhabitants of the townships of this Province as such, do extend to, and they are hereby declared to extend to, and shall be enjoyed by the inhabitants of the said township of Dundee.

CLASS B.

Relating to the Statistics of the Province.

1. POPULATION, INCREASE OF.

6 Geo IV.
Cap. 8.

An Act for ascertaining the annual increase of the Population of the Province.

Preamble.

WHEREAS a census of the population of the Province has been made in the year one thousand eight hundred and twenty-five, pursuant to an act of the legislature passed in the fifth year of His Majesty's reign, chapter seven ; and whereas it is expedient annually to ascertain the progressive annual increase of the population of this Province :—Be it therefore enacted, &c., that it shall hereafter be the duty of the clerks of the several civil courts of King's bench, or provincial courts in this Province, annually to prepare and digest, from the registers of baptisms, marriages and burials, deposited in their respective offices, in virtue of an act of the thirty-fifth year of the reign of His Majesty George the Third, chapter four, a triplicate statement and return of the number of baptisms, marriages and burials, that have taken place during the preceding year in their respective districts, distinguishing the number of males baptized and buried from that of females, and classing them by parishes or seigniories and townships, or reputed townships or settlements not comprehended in any parish, seignior or township, and by counties, agreeably to the form prescribed for that purpose in the appendix to this act, number one ; which triplicate statement and returns, the said clerks shall respectively, within fifteen days after the time by law appointed for delivering the registers aforesaid into their respective offices, lay before the Governor, Lieutenant-Governor, or person administering the government of the Province, for the time being, and before the other two branches of the legislature, if the same be in session, if not, then within the first six days after the meeting of the ensuing session thereof.

Clerks of the courts to prepare annual statements of of the number of baptisms, marriages and burials, &c.

Such statements to be laid before the Governor at a certain time.

II. And be it further enacted, &c. that for this service the clerks of each of the said courts shall be entitled to, and have a compensation not exceeding the following rate, that is to say : for examining the registers in order to prepare the statement and returns aforesaid, five shillings per register, and for the draft and copy of the said general statement and return of the district, according to the aforesaid form prescribed in the appendix number one, accompanied by and including the parochial, township, settlement and county returns, forty shillings, currency, and for each additional copy of such general statement and return of the district, accompanied by and including the said parochial, township and county returns, twenty shillings, currency ; which compensation shall be paid from and out of any unappropriated monies of the Province, under a warrant or warrants to that effect by the Governor, Lieutenant-Governor or person administering the government of the Province for the time being, directed to the receiver general of the Province.

Fees allowed to the clerks for such service.

How paid.

III. And be it further enacted, &c., that it shall be the duty of the collector of His Majesty's customs at the port of Quebec, and in his absence, of the person for the time being at the head of the department, annually, in the course of the month of December, to transmit to the Governor, Lieutenant-Governor, or person administering the government of the Province, for the time being, a return in the form prescribed for that purpose in the appendix to this act, number two, of the number of emigrants having arrived during the preceding summer at Quebec from the United Kingdom or elsewhere, distinguishing males from females, and the number of each destined for Upper Canada, and of those intending to remain in this Province ; copies of which return shall by the said collector or person as aforesaid, in like manner as herein above prescribed, be laid before the two branches of the legislature.

The collector of customs to transmit annually to the Governor triplicate returns of emigrants arriving at Quebec, &c.

IV. And be it further enacted, &c., that every master or other person having the charge or command of any ship or vessel arriving at the port of Quebec or other port in this Province, shall, under the penalty of ten pounds sterling, in case of neglect or default to comply herewith, within twenty-four hours after his arrival, deliver to the collector or other officer for the time being at the head of his department, a return of the aforesaid form prescribed for the purpose in the appendix to this act, number three, of the number of emigrants on board his ship or vessel, distinguishing males from females, and the number of each destined for Upper Canada or elsewhere, and those intending to remain in this Province ; and it shall be the duty of the harbour master or his assistant, and when there is no harbour master, then the custom house officer first boarding any such ship or vessel arriving at Quebec or other port in this Province, to deliver to the master or other person in charge thereof, a printed form of the said return, and on which form shall also be printed, for the information of such master or other person in charge as aforesaid, this and the next preceding clause of this act, to the end that he may be the better acquainted with his duty according to the requirements of this act ; which forms shall, for this purpose, be delivered by the trinity house to the said harbour master or other custom house officer boarding vessels as aforesaid.

Masters of vessels to give in to the collector a return of emigrants on board of their vessels, &c.

Clauses of this act to be delivered to masters of vessels.

V. And be it further enacted, &c., that the penalties by this act imposed, shall be sued for at any time within three months next after the commission of the offence and not afterwards, before any two justices of the

Penalties how recovered.

peace in a summary manner, and shall be levied by seizure and sale of the goods and chattels of the offender, in virtue of a warrant to that effect.

Penalties
granted to His
Majesty.

VI. And be it further enacted, &c., that the penalties by this act imposed and levied, shall be and the same are hereby granted to His Majesty, His Heirs and Successors, for the public uses of the Province and the support of the government thereof; and that the due application of the monies arising from such penalties shall be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall be pleased to direct.

APPENDIX NUMBER ONE.

General Statement and Return of Baptisms, Marriages and Burials in the District of

Year.	Counties.	Parishes, seigniories, townships, or cities.	Baptisms.		Marriages.	Burials.		Increase of population, ascertained by the difference between baptisms and burials.	Total per counties. — Increase of population.	Remarks.
			Males.	Fem's.		Males.	Fem's.			
182	Cornwallis.	Ste. Anne,	60	75	30	55	65	15		
		Riv. Ouelle,	50	52	20	40	45	17	32	
	Devon	St. Roch,	86	82	60	67	64	37	66	
		St. Jean,	45	39	26	25	30	29		
		Total, ..	241	248	136	187	204	96	96	

APPENDIX NUMBER TWO.

Return of Emigrants from the United Kingdom and elsewhere, arrived at Quebec, for the year one thousand eight hundred and . (If at any other port or place, separate returns to be made accordingly.)

From whence.	Emigrants intending to settle in Lower Canada.		Emigrants intending to proceed to Upper Canada.		Emigrants intending to proceed to Nova Scotia, (or elsewhere.)		Total.		Remarks.
	Males.	Fem's.	Males.	Fem's.	Males.	Fem's.	Males.	Fem's.	
From England,	250	275	500	550	100	110	850	935	
" Ireland,	350	375	800	850	150	175	1300	1400	
" Scotland,	150	175	300	350	10	15	460	540	
" Jersey,	15	18	15	18	—	—	30	36	
" Foreign Countries.	10	15	10	15	1	6	21	36	
	775	858	1625	1783	261	306	2661	2947	

APPENDIX NUMBER THREE.

Return of Emigrants from the United Kingdom and elsewhere, arrived at Quebec, per the Ship whereof is Master, in the year one thousand eight hundred and

From whence.	Emigrants intending to settle in Lower Canada.		Emigrants intending to proceed to Upper Canada.		Emigrants intending to proceed to Nova Scotia, (or elsewhere.)		Total.		Remarks.
	Males.	Fem's.	Males.	Fem's.	Males.	Fem's.	Males.	Fem's.	
For instance:									
From England,	25	30	25	30	10	5	60	65	
" Ireland,	30	26	36	15	6	4	71	44	
" Scotland,	15	18	15	18	—	—	30	36	
" Jersey,	10	15	10	15	1	6	21	36	
" Foreign Countries.	—	—	—	—	—	—	—	—	
	80	88	86	78	17	15	182	181	

CLASS C.

Relating to Penal Law—the definition of Offences and their punishment.

Offences against the Government.

1. Oaths and societies, unlawful.
2. Newspapers, pamphlets, &c., publication of.

Offences against the person.

3. Murder of bastards.

Offences against Property.

4. Larceny.
5. Lands, fraudulent seizures of.
6. Forgery of foreign notes.

Misdemeanors, &c.

7. Soldiers, desertion of.
8. Seamen, desertion of.
9. Forestalling, regrating, &c.
10. Sundays, sale of liquors, &c., on.
11. Churches, good order in.
12. Wharfingers, unclaimed goods.
13. Gunpowder, improper storing, &c., of.

Punishment of Offences.

14. Attainder of convicts at courts martial.
15. Houses of correction.
16. Death, sentence of.
17. Execution for murder, &c.

1. OATHS AND SOCIETIES, UNLAWFUL.

An Ordinance for more effectually preventing the administering 2 Vict. (2).
or taking of unlawful Oaths, and for better preventing trea- Cap. 8.
sonable and seditious practices.

WHEREAS divers wicked and evil-disposed persons have, of late, Preamble.
attempted to seduce divers of Her Majesty's subjects in this Pro-

vince, from their allegiance to Her Majesty, and to incite them to acts of sedition, rebellion, treason, and other offences, and have endeavoured to give effect to their wicked and traitorous proceedings by imposing upon the persons whom they have attempted to seduce and incite, the pretended obligation of oaths unlawfully administered; and whereas divers societies and associations have been of late instituted in this Province of a new and dangerous nature, inconsistent with the public tranquillity and with the existence of regular government:—Be it therefore ordained and enacted, &c.,

Administering any oath binding to the commission of treason, &c., or concealing such oath, how to be punished.

that any person or persons who shall in any manner or form whatsoever, administer, or cause to be administered, or being aiding or assisting at, or present at and consenting to the administration or taking of any oaths or engagement, purporting or intending to bind the person taking the same to commit any treason or murder, or any felony punishable by law with death, or to engage in any seditious, rebellious, or treasonable purpose, or to disturb the public peace, or to be of any association, society, or confederacy, formed for any such purpose, or to obey the order or commands of any committee or body of men not lawfully constituted, or of any leader or commander, or other person not having authority by law for that purpose, or not to inform or give evidence against any associate, confederate or other person, or not to reveal or discover any illegal act, done or to be done, or not to reveal or discover any illegal oath or engagement which may have been administered or tendered to, or taken by such person or persons, or to or by any other person or persons, or the import of any such oath or engagement, shall, on conviction thereof by due course of law, be adjudged guilty of felony, and may be transported for any term of years not exceeding twenty-one years; and every person who shall take any such oath or engagement, not being compelled thereto, shall, on conviction thereof by due course of law, be adjudged guilty of felony, and may be transported for any term of years not exceeding seven years.

Punishment on persons voluntary taking such oath.

But see Tables.

Compulsion not to justify, &c.

II. Provided always, and be it further ordained and enacted, that compulsion shall not justify or excuse any person taking such oath or engagement, unless he or she shall, within eight days after the taking thereof, if not prevented by actual force or sickness, and then within eight days after the hindrance produced by such force or sickness shall cease, declare the same, together with the whole of what he or she shall know touching the same, and the person or persons by whom and in whose presence, and when and where such oath or engagement was administered or taken, by information on oath, before one of Her Majesty's justices of the peace for the district in which such oath or engagement was administered or taken.

Persons aiding or assisting, &c., to be deemed principals.

III. And be it further ordained and enacted, &c., that persons aiding and assisting at, or present and consenting to the administering or taking of any such oath or engagement as aforesaid, and persons causing any such oath or engagement to be administered or taken, though not present at the taking or administering thereof, shall be deemed principal offenders, and shall be tried as such, although the person or persons who actually administered such oath or engagement, if any such there shall be, shall not have been tried or convicted.

In any indictment the import of the oath only need be set forth.

IV. And be it further ordained and enacted, &c., that it shall not be necessary, in any indictment against any person or persons administering, or causing to be administered or taken, or taking any such oath or engagement as aforesaid, or aiding or assisting at, or present at and consenting

to the administering or taking thereof, to set forth the words of such oath or engagement; and that it shall be sufficient to set forth the import of such oath or engagement, or some material part thereof.

V. Provided always, and be it further ordained and enacted, &c., that any engagement or obligation whatever, in the nature of an oath, shall be deemed an oath, within the intent and meaning of this ordinance, in whatever form or manner the same shall be administered or taken, and whether the same shall be actually administered by any person or persons, or taken by any person or persons without any administration thereof by any person or persons.

Engagement or obligation to be deemed an oath.

VI. And be it further ordained and enacted, &c., that from and after the passing of this ordinance, all and every society or association now established, or hereafter to be established, the members whereof shall, according to the rules thereof, or to any provision, or any agreement for that purpose, be required to keep secret the acts or proceedings of such society or association, or admitted to take any oath or engagement, which shall be an unlawful oath or engagement, within the intent and meaning of the foregoing provisions of the ordinance, or to take any oath or engagement not required or authorised by law,—and every society or association, the members whereof or any of them shall take, or in any manner bind themselves by any such oath or engagement, or in consequence of being members of such society or association,—and every society or association, the members whereof or any of them, shall take, subscribe, or assent to any engagement of secrecy, test or declaration not required by law,—and every society of which the names of the members, or any of them, shall be kept secret from the society at large, or which shall have any committee or secret body so chosen or appointed that the members constituting the same shall not be known by the society at large to be members of such committee or select body, or which shall have any president, treasurer, secretary or delegate, or other officer, so chosen or appointed that the election or appointment of such persons to such office shall not be known to the society at large, or of which the names of all the persons and of the committee or select bodies of members, and of all presidents, treasurers, secretaries, delegates and other officers, shall not be entered in a book or books for that purpose, and to be open to the inspection of all the members of such society or association,—and every society or association which shall be composed of different divisions or branches, or of different parts acting in any manner separately or distinct from each other, or of which any part shall have any separate or distinct president, secretary, treasurer, delegate or other officer elected or appointed by or for such part, or to act as an officer for such part,—shall be deemed and taken to be unlawful combinations and confederacies; and every person who, from and after the passing of this ordinance, shall become a member of any such society or association, at the passing of this ordinance,* shall afterwards act as a member thereof, and every person who, after the passing of this ordinance, shall, directly or indirectly, maintain correspondence or intercourse with any such society or association, or with any division, branch, committee, or other select body, treasurer, secretary, delegate, or other officer or member of such society or association, whether within or without the Province, as such, or who shall by contribution of money or otherwise, aid, abet, or support such society, or any members or officers thereof, as such, shall be deemed guilty of an unlawful combination or confederacy.

What societies are to be deemed unlawful; and

What persons are to be deemed confederates.

* Sic. But see French.

Persons convicted of such combination or confederacy to be subject to transportation or imprisonment.

But see Tables.

VII. And be it further ordained and enacted, &c., that any person who, at any time after the passing of this ordinance, shall, in breach of the provisions thereof, be guilty of any such unlawful combination or confederacy as in this ordinance is described, and shall be convicted thereof upon indictment by due course of law, shall and may be transported for a term not exceeding seven years, in the manner provided by law for the transportation of offenders, or imprisoned for any time not exceeding two years, as the court before whom such offenders shall be tried shall think fit; and every such offender who shall be so ordered to be transported, shall be subject and liable to all laws concerning offenders ordered to be transported.

Penalty on persons permitting illegal meetings to be held in their houses or on their premises.

VIII. And be it further ordained and enacted, &c., that if any person shall knowingly permit any meeting of any society or association hereby declared to be an unlawful combination or confederacy, or of any division, branch, or committee of such society, to be held in his or her house, apartment, barn, out-house, or other building, such person shall, for the first offence, forfeit a sum not exceeding fifty pounds currency, and shall, for any such offence committed after the date of his or her conviction for such first offence, be deemed guilty of an unlawful combination and confederacy in breach of this ordinance, and shall be punished as hereby directed.

Not to extend to the acknowledged lodges of free-masons.

Provido.

IX. And whereas certain societies have been long accustomed to be holden in this Province, under the denomination of lodges of free-masons, the meetings whereof have been in great measure directed to charitable purposes :—Be it therefore ordained and enacted, &c., that nothing in this ordinance shall extend to the meetings of any such society or lodge, which, before the passing of this ordinance have been, or which may hereafter be holden under the said denomination, and in conformity to the rules prevailing among the said societies of free-masons; Provided always, that such societies or lodges shall have been or shall be erected and constituted, by or under the authority of warrants in that behalf, granted by or derived from any grand master or grand lodge, in the United Kingdom of Great Britain and Ireland.

Ordinance to be publicly read, &c.

X. And be it further ordained and enacted, &c., that it shall be imperative on each and every rector, curate, vicar, or other priest or minister performing the parochial or clerical duty of any parish or other church of this Province, to read this ordinance or cause it to be read publicly at the door of the parish church, and where there is no church, at any other place of public worship, immediately after divine service in the morning, on three consecutive Sundays immediately following the reception of this ordinance by such rector, curate, vicar, or other priest or minister, in each parish, township, or extra-parochial place within this Province.

Abstract of this ordinance to be posted in each parish.

XI. And be it further ordained and enacted, &c., that it shall be the duty of the law officers of the Crown to make an abstract of the said ordinance, which abstract shall be printed and forwarded with the said ordinance, and be distributed and posted in each parish, township and extra-parochial place within the said Province, in such manner as the Governor, Lieutenant-Governor, or person administering the government thereof, may direct.

2. NEWSPAPERS, PAMPHLETS, &c., PUBLICATION OF.

An Ordinance for preventing mischiefs arising from the printing and publishing Newspapers, Pamphlets and Papers of like nature, by persons not known, and for other purposes. 1 Vict. Cap. 20.

WHEREAS it is expedient that regulations should be provided touch- *Preamble.*

ing publications of the nature hereinafter mentioned :—Be it therefore ordained and enacted, &c., that no person shall, after thirty days from the passing of this ordinance, print or publish, or cause to be printed or published in this Province, any newspaper, pamphlet, or other paper containing public news or intelligence, or serving the purpose of a newspaper, or for the purpose of posting or general circulation in detached pieces as such newspaper, until an affidavit or affidavits, or affirmation or affirmations, made and signed as hereinafter mentioned, shall be delivered to the clerk or clerks of the peace, for the district in which such newspaper or pamphlet, or other paper shall be printed or published, containing the several matters and things hereinafter for that purpose specified and mentioned. *Affidavits to be made by printers and publishers of newspapers, &c.*

II. And be it further ordained and enacted, &c., that such affidavit or affidavits, affirmation or affirmations, shall specify and set forth the real and true names, additions, descriptions and places of abode, of all and every person or persons who is or are, or who is or are intended to be, the printer and printers, publisher and publishers of the newspaper, pamphlet, or other paper mentioned in such affidavit or affidavits, affirmation or affirmations, and of all the proprietors of the same, if the number of such proprietors, exclusive of the printer and publisher, does not exceed two; and in case the same shall exceed such number, then of two such proprietors, exclusive of the printer and publisher; and also the amount of the proportional shares of such proprietors in the property of the newspaper, pamphlet or other paper, and the true description of the house or building wherein such newspaper, pamphlet or other paper is intended to be printed, and likewise the titles of such newspaper, pamphlet or other paper. *Affidavit to set forth names and additions of printers, publishers and proprietors, with description of title and place of publication.*

III. Provided always, and be it further ordained and enacted, &c., that in every case where the number of such proprietors, exclusive of the printer and publisher, does not exceed two,* the names of two proprietors, the amount of each of whose proportional shares in the property of such newspaper, pamphlet, or other paper, shall not be less than the proportional share of any other proprietor, exclusive of the printer and publisher, shall be specified and set forth in such affidavit or affidavits, affirmation or affirmations. *Provided the number of proprietors does not exceed two.*

* *Sic.*

IV. And be it further ordained and enacted, &c., that an affidavit or affirmation, affidavits or affirmations of the like import, shall be made, signed and given in like manner, as often as any of the printers, publishers or proprietors named in such affidavits or affirmations shall be changed, or shall change their respective places of abode, or their printing house, place or office, and as often as the title of the newspaper, pamphlet or other paper shall be changed. *Affidavit to be renewed when changes take place.*

V. And be it further ordained and enacted, &c., that every such affidavit or affirmation shall be in writing, and signed by the person or persons making the same, and shall be taken by any Justice of the peace for the district *Affidavit to be in writing and signed.*

in which such newspaper, pamphlet or other paper shall be printed or published.

Where printers and publishers with proprietors do not exceed four.

When the number exceeds four.

Persons swearing to give notice.

Penalty.

Penalty on persons publishing without duly making affidavit or affirmation.

False names or descriptions of persons, and wilful omission of names to subject offenders to penalties of wilful perjury.

VI. And be it further ordained and enacted, &c., that where the persons concerned as printers and publishers of any newspaper, pamphlet or other such paper as aforesaid, together with such number of proprietors as are hereinbefore required to be named in such affidavits or affirmation as aforesaid, shall not altogether exceed the number of four persons, the affidavit or affirmation hereby required shall be sworn or affirmed and signed by all the said persons who are adult, and when the number of all such persons shall exceed four, the same shall be signed and sworn or affirmed by four such persons, if so many of them are adult, or by so many of them as are adult; but the same shall contain the real and true names, descriptions and places of abode of all and every person or persons, who is and are, or is and are intended to be the printer and printers, publisher and publishers, and of so many of the proprietors as are herein before for that purpose mentioned, of such newspaper, pamphlet or other such paper as aforesaid; and the person and persons so signing and swearing or affirming to the truth of such affidavit or affirmation in the last mentioned case, shall and are hereby required to give notice, within eight days after such affidavit or affirmation shall be so delivered as aforesaid, to each of the persons not signing and swearing or affirming such affidavit or affirmation, but named therein as a proprietor, printer or publisher of such newspaper, pamphlet, or other paper as aforesaid, that he or they are so named therein; and in case of neglect to give such notice, each and every person who has so signed and sworn or affirmed such affidavit or affirmation shall forfeit and lose the sum of twenty pounds.

VII. And be it further ordained and enacted, &c., that if any person shall knowingly or wilfully print or publish, or cause to be printed and published, or shall knowingly and wilfully, either as a proprietor thereof or otherwise, sell, vend, or deliver out any newspaper, pamphlet or other such paper as aforesaid, such affidavit or affirmation containing such matters and things as are required by this ordinance to be therein contained, not having been duly signed, sworn or affirmed and delivered, and as often as by this ordinance is required, or any other matter or thing required by this ordinance to be done or performed according to this ordinance, not having been done or performed, such person shall forfeit and lose the sum of five pounds.

VIII. And be it further ordained and enacted, &c., that if any person or persons making such affidavit or affirmation, as in and by this ordinance is required to be made, shall knowingly and wilfully insert and set forth therein the name or names, addition or additions, place or places of abode of any person as proprietor, publisher or printer of any newspaper, or other such pamphlet or paper as aforesaid, to which such affidavit or affirmation relates, who is not a proprietor, printer or publisher thereof,—or shall knowingly or wilfully omit to mention in such affidavit or affirmation the name or names, addition or additions, and place or places of abode of any of the proprietors, printers or publishers thereof, contrary to the true meaning of this ordinance,—or shall knowingly and wilfully in any other manner or respect, set forth in such affidavit or affirmation any matter or thing by this ordinance required to be set forth, otherwise than according to the truth,—or shall knowingly and wilfully omit to set forth therein according

to the truth, any matter or thing required by this ordinance to be therein set forth,—every person so offending shall be liable to the pains and penalties to which persons are liable for wilful and corrupt perjury.

IX. And be it further ordained and enacted, &c., that all such affidavits and affirmations as aforesaid shall be filed and kept and preserved by the clerk or clerks of the peace for the district in which such newspaper, pamphlet or other paper shall be printed or published; and the same, or copies thereof certified to be true copies as hereinafter is mentioned, shall respectively in all proceedings, civil and criminal, touching any newspaper or other such pamphlet or paper as aforesaid, which shall be mentioned in any such affidavits or affirmations, or touching any publication, matter or thing contained in any such newspaper, pamphlet or paper as aforesaid, be received and admitted as conclusive evidence of the truth of all such matters set forth in such affidavits or affirmations, as are hereby required to be therein set forth, against every person who shall have signed and sworn or affirmed such affidavits or affirmations, and shall also be received and admitted in like manner as sufficient evidence of the truth of all such matters against all and every person who shall not have signed or affirmed the same, but who shall be mentioned therein to be a proprietor, printer and publisher of such newspaper, pamphlet or other paper, unless the contrary shall be satisfactorily proved: Provided always, that if any such person or persons respectively, against whom any such affidavit or affirmation, or any copy thereof, shall be offered in evidence, shall prove that he, she, or they, hath or have signed, sworn or affirmed, and delivered to the clerk or clerks of the peace of the district, previous to the day of the date or publication of the newspaper, pamphlet or other such paper as aforesaid, to which the proceedings civil or criminal shall relate, an affidavit or affirmation that he, she or they hath or have ceased to be the printer or printers, proprietor or proprietors, or publisher or publishers of such newspaper, pamphlet or such paper as aforesaid, such person or persons shall not be deemed, by reason of any former affidavit or affirmation so delivered as aforesaid, to have been the printer or printers, or publisher or publishers of such newspaper, pamphlet or other paper, after the day on which such last mentioned affidavit or affirmation shall have been delivered to the clerk or clerks of the peace.

Clerks of peace to preserve all such affidavits.

Which shall be received as evidence in all proceedings, against such newspaper, &c.

Proviso.

X. And be it further ordained and enacted, &c., that in some part of every newspaper, pamphlet, or other such paper as aforesaid, there shall be printed the true and real name and names, addition and additions, and place and places of the abode of the printer and printers, and publisher and publishers of the same, and also a true description of the place where the same is printed: and in case any person or persons shall knowingly and wilfully print or publish, or cause to be printed or published, any such newspaper, pamphlet, or other paper as aforesaid, not containing the particulars as aforesaid and every of them, every such person shall forfeit and lose the sum of twenty pounds; and that proof in the manner hereinafter mentioned, in any proceeding to recover the same, that the person proceeded against is a printer or publisher of a newspaper, pamphlet or other such paper so printed and published as aforesaid, shall be deemed and taken to be proof that such party is a person wilfully and knowingly printing or publishing the same, or causing the same to be printed or published, unless he shall satisfactorily prove the contrary thereof.

Names and additions, &c., of printer and publisher to be printed in every paper.

Penalty.

XI. And be it further ordained and enacted, &c., that it shall not be necessary after any such affidavit or affirmation, or a certified copy thereof

When affidavit shall be

produced in evidence, no proof of purchase from defendant or servants, or of place of purchase, shall be necessary.

shall have been produced in evidence as aforesaid, against the persons who made and signed such affidavit or affirmation, or are therein named according to this ordinance, or any of them, and after a newspaper, pamphlet, or other such paper as aforesaid shall be produced in evidence, intituled in the same manner as the newspaper, pamphlet, or other paper mentioned in such affidavit or affirmation or copy is intituled, and wherein the name or names of the printer and publisher, or printers and publishers, and the place of printing, shall be the same as the name or names of the printer and publisher, or printers and publishers, and the place of printing mentioned in such affidavit or affirmation, for the plaintiff, informant, or prosecutor, or person seeking to recover any of the penalties given by this ordinance, to prove that the newspaper, pamphlet, or paper to which such suit or trial relates, was purchased at any house, shop, or office belonging to or occupied by the defendant and defendants, or any of them, or by his or their servants or workmen, or where he or they by themselves, or their servants or workmen, usually carry on the business of printing or publishing such newspaper, pamphlet, or other such paper, or where the same is usually sold.

Clerks of the peace to furnish copy of affidavits.

XII. And be it further ordained and enacted, &c., that the clerk or clerks of the peace of each and every of the districts of this Province, by whom such affidavits and affirmations, or any of them, shall be kept according to the directions of this ordinance, shall and they are hereby required upon application made to them or any of them, by any person or persons requiring a copy, certified according to this ordinance, of any such affidavit or affirmation as aforesaid, in order that the same may be produced in any civil or criminal proceeding, to deliver to the person so applying for the same such certified copy, he or they paying for the same, the sum of one shilling, and no more.

Fee therefor.

A certified copy of affidavit to have the same effect in evidence as the original would if produced.

XIII. And be it further ordained and enacted, &c., that in all cases a copy of such affidavit or affirmation, certified to be a true copy under the hand of the clerk or clerks of the peace possessing the same, shall be received in evidence as sufficient proof of such affidavit or affirmation, and that the same was duly sworn or affirmed, and of the contents thereof; and that such copies so produced and certified, shall also be received as evidence that the affidavits or affirmations of which they purport to be copies, have been sworn or affirmed according to this ordinance, and shall have the same effect for the purposes of evidence to all intents whatsoever, as if the original affidavits or affirmations, of which the copies so produced and certified shall purport to be copies, had been produced in evidence, and been proved to have been duly so certified, sworn and affirmed by the person or persons appearing by such copies to have sworn or affirmed the same as aforesaid.

Penalties how recovered,

and appropriated.

XIV. And be it further ordained and enacted, &c., that all fines, penalties and forfeitures shall be recovered by action of debt, in the court of King's bench for the district in which the offence or offences against the provisions of this ordinance shall be committed; and that the money arising by all such fines, penalties and forfeitures shall be as to one moiety thereof, to and for the use of our Sovereign Lady the Queen, Her Heirs and Successors, and as to the other moiety thereof, to and for the use of the person who shall inform and sue for the same.

3. MURDER OF BASTARDS.

An Act to repeal an Act made in England, in the twenty-first year of the reign of His late Majesty King James the First, chapter twenty-seventh, intituled, *An Act to prevent the destroying and murthering of Bastard Children*, as to this Province of Lower Canada, and for making provisions for the trials of women charged with the murder of any issue of their bodies, male or female, which being born alive, would, by law, be Bastard. 52 Geo. III.
Cap. 3.

WHEREAS doubts have been entertained respecting the true sense and meaning of a certain act of parliament, made in England in the twenty-first year of the reign of His late Majesty King James the First, intituled, *An act to prevent the destroying and murthering of bastard children*, and the same hath been found, as well in England as in this Province, in sundry cases, difficult and inconvenient to be put in practice :— Be it therefore enacted, &c., that from and after the passing of this act, the said act of parliament made in England in the twenty-first year of the reign of His late Majesty King James the First, intituled, *An Act to prevent the destroying and murthering of bastard children*, and every thing therein contained shall be and the same, as to this Province of Lower Canada, is and are hereby repealed. Preamble.
Act of Parlia-
ment of Great
Britain, 21
James I. re-
pealed.

II. And be it further enacted, &c., that from and after the passing of this act, the trials in this Province, of women charged with the murder of any issue of their bodies, male or female, which being born alive, would, by law, be bastard, shall proceed and be governed by such and the like rules of evidence and of presumption as are by law used and allowed to take place in respect to other trials for murder, and as if the said act of parliament last herein mentioned, and hereby so as aforesaid repealed, had never been made. Trials of wo-
man charged
with the mur-
der of their
bastard chil-
dren.

III. Provided always and be it enacted, &c., that it shall and may be lawful for the jury, by whose verdict any prisoner charged with such murder as aforesaid, shall be acquitted, to find, in case it shall so appear in evidence, that the prisoner was delivered of issue of her body, male or female, which, if born alive, would have been bastard, and that she did by secret burying or otherwise endeavour to conceal the birth thereof; and thereupon, it shall be lawful for the court before which such prisoner shall have been tried, to adjudge that such prisoner shall be committed to the common gaol or house of correction, there to be kept to hard labour, for any time not exceeding two years. Punishment of
women charg-
ed with such
murder and
acquitted, but
convicted of
secretly bury-
ing any bas-
tard child.
But see Tables.

4. LARCENY.

An Act to repeal so much of an Act made in the Parliament of England, in the tenth and eleventh years of King William the Third, as inflicts capital punishment on persons guilty of stealing to the amount of five shillings, in any Shop, Warehouse, Coach-house or Stable. 4 Geo. IV.
Cap. 4.

WHEREAS by an act made in the parliament of England, in the tenth and eleventh years of the reign of King William the Third,

See Tables. intituled, *An act for the better apprehending, prosecuting, and punishing of felons that commit burglary, house-breaking or robbery in shops, warehouses, coach-houses or stables, or that steal horses*, it is among other things enacted, &c. (*Certain parts of the said act recited, and so much thereof as is inconsistent with this act repealed, after the expiration of 31 days from the 9th March, 1824*).

Punishment of persons so stealing goods, &c., of a certain value, or assisting in stealing the same. II. And be it further enacted, &c., that from and after the expiration of thirty-one days next after the passing of this act, every person who, at any time, by night or by day, in any shop, warehouse, coach-house or stable, privately and feloniously shall steal any goods, wares or merchandizes, being of the value of five shillings, sterling, or more, and under the value of fifteen pounds, sterling, or shall assist, hire or command any person or persons to commit such offence, shall be liable to be banished from this Province for life, or for such term, not less than two years, as the court before which any such person shall be convicted shall adjudge; or such offender shall be liable, in case the court shall see fit, to be imprisoned only, or to be imprisoned and kept to hard labour in the common gaol or house of correction, for any term not exceeding two years.

But see Tables.

Persons returning from banishment to suffer death without benefit of clergy.

See Tables.

III. And be it further enacted, &c., that if any person or persons who shall be banished by virtue of this act, shall be afterwards at large within the limits of this Province, without some lawful cause, before the expiration of the term for which such person or persons shall be banished, all and every such person or persons, being thereof lawfully convicted, shall suffer death as a felon, without benefit of clergy.

4 Geo IV.
Cap. 5.

An Act to repeal so much of an Act made in the Parliament of Great Britain, in the twelfth year of Queen Anne, as inflicts capital punishment on persons guilty of stealing to the amount of forty shillings, in any Dwelling-house or Out-house thereunto belonging.

Preamble.

See Tables.

WHEREAS by an act made in the parliament of Great Britain, in the twelfth year of the reign of Queen Anne, intituled, *An act for the more effectual preventing and punishing robberies that shall be committed in houses*, it is among other things enacted, &c. (*Certain parts of the said act recited, and so much thereof as is inconsistent with this act repealed, after the expiration of 31 days from 9th March, 1824*).

Punishment of persons so stealing money, goods, &c. of a certain value or assisting in stealing the same.

But see Tables.

II. And be it further enacted, &c., that from and after the expiration of thirty-one days next after the passing of this act, every person who shall feloniously steal any money, goods or chattels, wares or merchandizes of the value of forty shillings sterling, or more, and under the value of fifteen pounds, sterling, in any dwelling-house or out-house thereunto belonging, or shall assist or aid any person or persons to commit any such offence, shall be liable to be banished from this Province for life, or for such term, not less than two years, as the court before which any such person shall be convicted shall adjudge; or such offender shall be liable, in case the said court shall see fit, to be imprisoned only, or to be imprisoned and kept to hard labour in the common gaol or house of correction, for any term not exceeding two years.

Persons returning from

III. And be it further enacted, &c., that if any person or persons who shall be banished by virtue of this act, shall be afterwards at large within

the limits of this Province, without some lawful cause, before the expiration of the term for which such person or persons shall be so banished, all and every such person or persons, being thereof lawfully convicted, shall suffer death as a felon, without benefit of clergy.

banishment, to suffer death without the benefit of clergy.
See Tables.

An Act to repeal so much of an Act made in the Parliament of Great Britain, in the twenty-fourth year of King George the Second, as inflicts capital punishment on persons guilty of stealing to the amount of forty shillings, on any Navigable River, or any Wharf or Quay adjacent to any Navigable River.

4 Geo. IV.
Cap. 6.

WHEREAS by an act made in the parliament of Great Britain, in the twenty-fourth year of the reign of King George the Second, intitled, *An act for the more effectual preventing of robberies and thefts upon any navigable rivers, ports of entry, or discharge wharfs and keys adjacent*, it is among other things enacted, &c. (*Certain parts of the said act recited and so much thereof as is inconsistent with this act repealed, after the expiration of 31 days from 9th March, 1824*).

Preamble.

II. And be it further enacted, &c., that from and after the expiration of thirty-one days next after the passing of this act, every person who at any time shall feloniously steal any goods, wares or merchandize, of the value of forty shillings, and under the value of fifteen pounds, sterling, in any ship, barge, lighter, boat or other vessel or craft, upon any navigable river, or in any port of entry or discharge, or in any creek belonging to any navigable river, port of entry or discharge, within this Province of Lower Canada, or shall feloniously steal any goods, wares or merchandize of the value of forty shillings, and under the value of fifteen pounds sterling, upon any wharf or quay adjacent to any navigable river, port of entry or discharge, within this Province of Lower Canada, or shall be present, aiding and assisting in the committing of any or either of the offences aforesaid, shall be liable to be banished from this Province for life, or for such term, not less than two years, as the court before which any such person shall be convicted shall adjudge; or such offender shall be liable, in case the said court shall see fit, to be imprisoned only, or to be imprisoned and kept to hard labour in the common gaol or house of correction, for any term not exceeding two years.

Punishment of persons so stealing goods, &c., of a certain value, or assisting in stealing the same.
But see Tables.

III. And be it further enacted, &c., that if any person or persons who shall be banished by the virtue of this act, shall be afterwards at large within the limits of this Province, without some lawful cause, before the expiration of the term for which such person or persons shall be so banished, all and every such person or persons, being thereof lawfully convicted, shall suffer death as a felon, without benefit of clergy.

Persons returning from banishment to suffer death, without the benefit of clergy.
See Tables.

5. LANDS, FRAUDULENT SEIZURES OF.

An Act to prevent the fraudulent seizure and sale of Lands, and other real property within this Province.

6 Will. IV.
Cap. 26.

WHEREAS great frauds have been and hereafter may be committed with respect to lands and tenements, or other real property, situate

Preamble.

Penalty on persons seizing lands, &c. in any township, not being the property of the person on whom they are seized.

in the townships in this Province, by evil-designed persons, who, for the purpose of defeating the title of the lawful owner or proprietor of such lands and tenements, or other real property, fraudulently cause the same to be seized in execution and sold at sheriff's sale, without any lawful right so to do ; for remedy whereof :—Be it therefore enacted, &c., that if any person or persons, from and after the passing of this act, shall knowingly, wilfully and maliciously cause or procure to be seized and taken in execution, any lands and tenements, or other real property, situate within any township or townships erected or to be hereafter erected in this Province, not being, at the time of such seizure, the *bonâ fide* property of the person or persons against whom, or whose estate, the execution shall, in any case, have been issued, knowing the same not to be the property of the person or persons against whom the execution shall have been issued as aforesaid, the person or persons so offending, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the court before whom the offender shall be tried and convicted, to be imprisoned for any time not exceeding one year, or to be imprisoned and kept at hard labour in any common gaol, house of correction, or penitentiary, for any term not exceeding six months, as to the court, in its discretion, shall seem meet.

Not to debar persons injured, from maintaining an action.

II. And be it further enacted, &c., that nothing in this act contained, shall extend or be construed to debar any person or persons injured by such fraudulent seizure and sale as aforesaid, from having and maintaining his or their action in damages against the party offending, as aforesaid.

6. FORGERY OF FOREIGN NOTES.

51 Geo. III.
Cap. 10.

An Act for preventing the forging and counterfeiting of foreign Bills of Exchange, and of foreign Promissory Notes and Orders for the payment of money.

Preamble.

WHEREAS the practice of forging and counterfeiting foreign bills of exchange, foreign promissory notes and foreign orders for payment of money, and of circulating such forgeries, as well within the limits of the King's government in America, as without, has of late greatly increased ; and whereas it is expedient that effectual provision should be made for the preventing of the same :—May it therefore please Your Majesty that it may be enacted, and be it enacted, &c., that if any person, from and after the passing of this act, shall, within any part of the aforesaid Province of Lower Canada, falsely make, forge or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or knowingly aid or assist in the false making, forging or counterfeiting, any bill of exchange, or any promissory note, undertaking or order, for the payment of money, purporting to be the bill of exchange, promissory note, undertaking or note or order for the payment of money of any foreign prince, state or country whatsoever, or any minister or officer entrusted by or employed in the service of any foreign prince, state or country, or of any person or company of persons resident in any foreign state or country, or of any body corporate and politic, or body in the nature of a body corporate and politic, created or constituted by any foreign prince or state, with intent to deceive or defraud His Majesty, His Heirs and

Penalty on persons forging or counterfeiting foreign bills of exchange or foreign promissory notes and orders for the payment of money.

Successors, or any such foreign prince, state or country, or with intent to deceive or defraud any person or company of persons whomsoever, or any body corporate and politic, or body in the nature of a body corporate and politic, whatsoever, whether the same be respectively resident, carrying on business, constituted, or being in any part of the said Province of Lower Canada, or in any foreign state or country, and whether such bill of exchange, promissory note or order be in the English language or in any other language or languages, or partly in one and partly in the other,—or if any person, from and after the passing of this act, shall, within any part of the said Province of Lower Canada, tender in payment or in exchange, or otherwise utter or publish as true, any such false, forged or counterfeited bill of exchange, promissory note, undertaking or order, knowing the same to be false, forged or counterfeited, with intent to deceive or defraud His Majesty, His Heirs and Successors, or any foreign prince, state or country, or any person or company of persons, or any body corporate and politic, or body in the nature of a body corporate and politic as aforesaid,—then every person so offending, shall be deemed and taken to be guilty of a misdemeanor and a breach of the peace for the first offence, and being thereof lawfully convicted, shall be liable, for such offence, to be imprisoned for any time not exceeding two years, and kept to hard labour, or to be publicly whipped or set in and upon the pillory, or to suffer one or more of the said punishments, at the discretion of the court in which such conviction shall be had; and for a second or subsequent offence, shall be deemed and taken to be guilty of felony, and shall be liable to be imprisoned for any time not less than two years nor more than four, and be kept to hard labour, or to be publicly whipped or set in and upon the pillory, or to suffer one or more of the said punishments, at the discretion of the court in which such conviction shall be had.

But see Tables.

II. And be it further enacted, &c., that no person from and after the passing of this act, shall, within any part of the said Province of Lower Canada, engrave, cut, etch, scrape or by any other means or device, make, or knowingly aid or assist in the engraving, cutting, etching, scraping or by any other means or device, making in or upon any plate whatsoever, any bill of exchange, or any promissory note or undertaking or order for the payment of money, purporting to be the bill of exchange, promissory note, undertaking or order of any foreign prince, state or country, or of any minister or officer entrusted by or employed in the service of any foreign prince, state or country, or of any person or company of persons resident or being in any foreign state or country, or of any body corporate and politic, or body in the nature of a body corporate and politic, created or constituted by any foreign prince, state or country or any part of any such bill of exchange, promissory note, undertaking or order, without an authority in writing for that purpose from such foreign prince, state or country, minister or officer, person, company of persons or body corporate and politic, or body in the nature of a body corporate and politic, or from some person duly authorized to give such authority, or shall, within any part of the said Province of Lower Canada, without such authority as aforesaid, by means of any such plate or by any other device or means, make or print any such foreign bill of exchange, promissory note, undertaking or order for the payment of money, or any part thereof, or knowingly, wilfully and without lawful excuse, (the proof whereof shall lie upon the party accused) have in his or her custody any such plate or de-

Penalty on persons engraving, cutting, or etching, any bill of exchange or any promissory note or undertaking or order for the payment of money or of any foreign prince, &c.

See Tables.

vice, and if any person shall offend in any of the cases aforesaid, he shall be deemed and taken to be guilty of a misdemeanor and breach of the peace, and being thereof convicted according to law, shall be liable for each and every such offence, to be imprisoned for any time not exceeding six months, and kept to hard labour or to be publicly whipped, or to suffer one or more of the said punishments, at the discretion of the court in which such conviction shall be had : Provided always, that nothing in this act contained shall extend or be construed to extend, in any manner whatsoever, to repeal or alter any law or statute now in force for the prevention or punishment of the crime of forgery in any respect whatsoever, within any part of the said Province of Lower Canada.

Not to alter or repeal any law now in force for the punishment of forgery.

Penalty on persons, making or mending any plates, paper, rolling-press, &c.

III. And be it further enacted, &c., that if any person shall engrave, form, make or mend any plate or plates, paper, rolling-press or other tool, instrument, or material, devised, adapted and designed for stamping, forging or making any false and counterfeit bills of exchange, promissory notes, undertakings or orders as aforesaid, or shall have in his possession any such plate or plates engraven in any part, or any paper, rolling-press or other tool, instrument or material, devised, adapted or designed as aforesaid, with the intent to use and employ the same, or to cause or permit the same to be used and employed in forging and making any such false and counterfeit bills of exchange, promissory notes, undertakings or orders, every person so offending, shall be deemed and taken to be guilty of a misdemeanor and breach of the peace, and being thereof convicted according to law, shall be liable for each and every such offence to be imprisoned for any time not exceeding six months and kept to hard labour, or to be publicly whipped, or to be set in and upon the pillory, or to suffer one or more of the said punishments, at the discretion of the court in which such conviction shall be had.

But see Tables.

On complaint, a justice of peace may grant search warrant, &c. for dwelling house, &c. of persons suspected of having false bills of exchange or plates, rolling-presses, &c.

IV. And be it further enacted, &c., that it shall and may be lawful to and for any one justice of the peace, on complaint made before him upon the oath of one credible person, that there is just cause to suspect that any one or more person or persons is, or are, or hath, or have been concerned in making or counterfeiting any such false bills of exchange, promissory notes, undertakings or orders as aforesaid, by warrant under the hand of such justice, to cause the dwelling-house, room, workshop, out-house or other building, yard, garden or other place belonging to such suspected person or persons, or where any such person or persons shall be suspected to carry on any such making or counterfeiting, to be searched for any such false bills of exchange, promissory notes, undertakings or orders, or for such plates, rolling-presses or other tools, instruments, or materials for making and counterfeiting such false bills of exchange, promissory notes, undertakings or orders ; and if any such false bills of exchange, promissory notes, undertakings or orders, or any such plates, rolling-presses, or other tools, instruments or materials, shall be found in any place so searched, or if any such plates, rolling-presses or other tools, instruments or materials shall be found in the custody or possession of any person or persons whomsoever, not having the same by some lawful authority, it shall and may be lawful to and for any person or persons whatsoever discovering the same, to seize, and he and they are hereby authorized and required to seize such false or counterfeit bills of exchange, promissory notes, undertakings or orders, and such plates, rolling-presses or other tools, instruments or materials, and to carry the same forthwith to a justice of the peace of the district

or county where the same shall be seized, who shall cause the same to be secured and produced in evidence against any person or persons who shall or may be prosecuted for any of the offences aforesaid, in some court of justice proper for the determination thereof; and after such time as any such false or counterfeit bills of exchange, promissory notes, undertakings or orders, or any such plates, rolling-presses or other tools, instruments or materials shall have been produced in evidence as aforesaid, as well so much and such parts thereof as shall have been so produced as every other part thereof so seized and not made use of in evidence, shall forthwith, by order of the court where such offender or offenders shall be tried, be defaced or destroyed, or otherwise disposed of, as such court shall direct.

V. And be it further enacted, &c., that if any person shall be convicted of any offence against this act, in any one of the districts of this Province, and shall afterwards be guilty of the like offence in another district, the clerk of the Crown for the district where such former conviction shall have been had, or his deputy, shall certify the same by a transcript of the record of such conviction, certified under the hand of such clerk of the Crown or deputy as aforesaid, and the seal of the court in which such conviction was had; and such transcript, the hand writing of such clerk of the Crown or deputy as aforesaid thereto and the seal of such court being proved, shall be sufficient evidence of such former conviction.

Clerk of the Crown of the district where any former conviction was had, may certify the same.

VI. And be it further enacted, &c., that no person against whom any bill of indictment shall be found for any offence against this act, shall be entitled to traverse the same to any subsequent term or sessions, but the court at which such bill of indictment shall be found, shall forthwith proceed to try the person or persons against whom the same shall be found, unless he, she or they shall shew cause, to be allowed by the court, why his, her or their trial should be put off.

Indictment not to be traversed except for cause.

See Tables. 2 V. (3) c. 23.

7. SOLDIERS, DESERTION OF.

An Ordinance to amend a certain Act therein mentioned, and for the more effectual punishment of such persons as shall seduce Soldiers to desert.

2. Vict. (3.) Cap. 16.

WHEREAS by an act of the parliament of Great Britain, made and passed in the first year of the reign of His Majesty King George the First, intituled, *An act for the more effectual and exemplary punishment of such persons as shall seduce soldiers to desert, or who being papists, shall enlist themselves in His Majesty's services in Great Britain and Ireland, or in the Islands of Jersey or Guernsey*, which said act is in force in this Province, it is among other things enacted in effect, that if any person or persons whatsoever, (other than such as are or shall be enlisted as soldiers, against whom sufficient remedy is already provided by law,) shall, by words or other means whatsoever, directly or indirectly, persuade or procure any soldier or soldiers, in the service of His Majesty, His Heirs and Successors, to desert or leave such service, or shall go about or endeavour, in manner aforesaid, to persuade, prevail on, or procure such soldier or soldiers to desert or leave such service as aforesaid, every such person or persons so offending, as aforesaid, and being thereof lawfully convicted, shall, for every such offence, forfeit to His Majesty, His

Preamble.

Imp. act. Act 1. Geo. 1. recited.

Heirs and Successors, or to any other person or persons who shall sue for the same, the sum of forty pounds, sterling, to be recovered in the manner by the said act provided ; and that if it shall happen that any such offender, so convicted as aforesaid, hath not any goods and chattels, lands or tenements, to the value of forty pounds, sterling, to pay and satisfy the same, or that from the circumstances or heinousness of the crime, it shall be thought proper and convenient, the court before whom such conviction shall be made, as aforesaid, shall award the said offender to prison, there to remain for any time not exceeding six months, without bail or mainprize, and also to stand in the pillory, for the space of one hour, in the manner mentioned in the said act : And whereas in the prosecution of such offenders, in the manner heretofore provided by law, it frequently happens that during the delay afforded to the offender, previous to his trial, the witness or witnesses against such offender, being soldiers or other persons in Her Majesty's service, are removed from or leave this Province, and the ends of justice are thereby defeated and such offenders escape, and it is therefore expedient so to amend the said act as to remedy this evil :—Be it therefore ordained and enacted, &c., that each and every person who, not being such soldiers as aforesaid, shall, by words or other means, directly or indirectly, persuade or procure any soldier or soldiers in the service of Her Majesty, Her Heirs or Successors, to desert or leave such service, or shall go about and endeavour to persuade, prevail on, or procure such soldier or soldiers to desert or leave such service, as aforesaid, may be prosecuted either in the manner by the said act provided, or in a summary manner, before any three justices of the peace for the district in which such offence shall have been committed, and if convicted of such offence on the oath of one or more credible witness or witnesses before such justices of the peace, may by them be condemned to pay the said penalty of forty pounds, sterling, with costs, and may be committed by such justices to the common gaol of the district, for a period not exceeding six months, and (if such penalty and costs be not forthwith paid) then for such further time as the same shall remain unpaid ; and such penalty, when paid, shall belong to and be paid to Her Majesty, Her Heirs and Successors, or to the prosecutor or person suing for the same.

But see Tables.

Offenders may be prosecuted before any three justices of the peace in the district in which the offence is committed.

Prosecutions when to be commenced.

II. And be it further ordained and enacted, &c., that no prosecution shall be commenced by virtue of this ordinance more than six months after the offence committed.

8. SEAMEN, DESEPTION OF.

47 Geo. III. **An Act to prevent the desertion of Seamen and others in the sea service ; to punish persons encouraging such Seamen and others to desert, or harbouring or concealing them thereafter ; and to repeal certain Acts therein mentioned.**

Preamble.

WHEREAS the laws now in force for preventing desertion from ships and vessels in the merchant service, for the apprehension and detention of deserters therefrom, as well as from His Majesty's ships, and for the detection and punishment of persons encouraging or enticing seamen, apprentices and others to desert, and receiving, harbouring or secreting such seamen, apprentices and others, have been found inadequate

to the end proposed, and that further and more efficient regulations have thereby become necessary :—Be it therefore enacted, &c., that from and after the passing of this act, all and every part of an ordinance, &c., (30 Geo. 3. *cap.* 6), and also an act, &c., (40 Geo. 3. *cap.* 8), shall be, and the same are hereby repealed.

II. And be it further enacted, &c., that if any person or persons whatsoever, other than and except the master or commander or other persons in the third clause of this act described, shall, from and after the passing of this act, either by himself or themselves, or by the means of others acting under his or their orders or control and with his or their knowledge, lodge, harbour, conceal or receive any seaman, landsman or apprentice, seamen, landsmen or apprentices, or any other person legally bound or engaged to serve on board any ship or vessel, who shall have deserted from any ship or vessel in the service of His Majesty, or who* having regularly entered and signed articles of agreement, or being bound by articles of indenture to serve on board of any merchant ship or vessel, and knowing him or them to be such deserter or deserters, every person so offending, shall, on conviction thereof, for the first offence, forfeit and pay the sum of ten pounds, current money of this Province, and for each and every subsequent like offence shall forfeit and pay double the amount of said penalty ; and if such person be an inn-keeper or tavern-keeper, his or her licence for keeping a house or other place of public entertainment, shall also, from and after a conviction for every such subsequent offence, be null and void, and not renewable for the space of twelve months, nor until the judgment of the court, before which the offence shall have been tried, shall have been certified by the clerk of the peace of the district to have been fully complied with and satisfied ; and the said clerk of the peace is hereby required to furnish such certificate on receiving the sum of one shilling and three pence from the party requiring the same : and it is hereby declared, that the suffering any such deserter or person suspected of desertion as aforesaid, to continue in the house, out buildings or premises of the same master or keeper, for the space of three hours between the rising of the sun and the setting of the same, or for the space of any six successive hours, shall be held and construed to be harbouring, concealing, lodging or receiving such deserter or person suspected of desertion as aforesaid, within the true intent and meaning of this act.

III. And be it further enacted, &c., that if the master or commander of any ship or vessel in the merchant service, or the owner or part owners, consignee or consignees, or any agent, servant or person acting on behalf of such owner or owners, part owner or part owners, consignee or consignees, or any other person or persons, acting on the behalf, with the knowledge or under the authority of any such master or commander, or of such owner or owners, part owner or part owners, consignee or consignees, shall engage or shall receive, harbour or conceal on board of any ship or vessel or elsewhere, any seaman, landsman or apprentice, seamen, landsmen or apprentices, or any other person so legally engaged as aforesaid, knowing him or them to be such, who shall have deserted as hereinbefore mentioned, or shall, by himself, themselves or any servant or servants, agent or agents, by words or with money, or by promises of future reward or compensation, or by any other ways or means whatsoever, directly or indirectly, entice, prevail upon, procure, persuade or encourage, or endeavour or attempt to entice, prevail upon, procure, persuade or encourage, any such

Penalty on persons harbouring deserters from the King's or merchant's service.

* Sic.

What shall be harbouring.

Penalty on masters of ships concealing deserters on board of any vessel.

seaman or seamen, landsman or landmen, apprentice or apprentices, or any other such person, so legally engaged as aforesaid, to desert from the ship or vessel to which he or they may respectively belong,—every such master or commander, owner and owners, part owner and part owners, consignee and consignees, and all and every other person and persons acting on the behalf, with the knowledge or under the authority of any such master or commander, owner or owners, part owner or part owners, consignee or consignees, shall, on conviction thereof, for every such offence, forfeit and pay a sum not exceeding fifty pounds, nor less than twenty pounds, current money of this Province, at the discretion of the court or magistrate, before which the said offence shall be prosecuted, for every seaman, landsman or apprentice, or such other person so legally engaged as aforesaid, who shall be received, harboured, concealed, enticed, prevailed upon, procured, persuaded or encouraged, or attempted to be enticed, prevailed upon, procured, persuaded or encouraged to desert as aforesaid : Provided always, that nothing in this act contained shall extend, or be construed to extend, so to affect His Majesty's service, by sea or land, as to subject any seaman or landsman, or any other person or persons whomsoever, for or in respect of his or their entering into His Majesty's service, nor shall any officer in His Majesty's service, or any other person or persons acting by or on behalf, or in the service of His Majesty, be subject to any pains, penalty or punishment, which he or they would not have been subject to, before the passing of this present statute.

Not to affect
H.M.'s service
by sea or land.
Nor prevent
seamen enter-
ing into H.
M.'s service.
Nor to subject
any officer to
penalty.

Manner of
proceeding
against seamen
who shall have
absented them-
selves from
their duty.
Complaint.
Desertion.

IV. And be it further enacted, &c., that upon complaint made upon oath before any one of His Majesty's justices of the peace, by the master or commander of any ship or vessel in the merchant service, or in his absence, by the chief mate thereof, or by any other person having the care or charge of such ship or vessel, that any seaman, landsman or apprentice, or any other person legally bound or engaged to serve on board such ship or vessel, hath deserted therefrom, or hath conveyed away by himself, or by any other means whatsoever, from such ship or vessel, his clothes or bedding, or those of any other seaman, landsman or apprentice, or any other person so legally engaged as aforesaid, or belonging to the said master or commander, mate or mates, or to the owner or owners of such ship or vessel (such seaman, landsman or apprentice, or any such other person as last aforesaid doing so with the view, design or intention of deserting or of aiding, assisting, promoting or facilitating the desertion of any other person or persons lawfully engaged to serve on board any such ship or vessel,) or that such seaman, landsman or apprentice, or other such person or persons, so legally engaged, hath absented himself from such ship or vessel, without leave first obtained from the said master or commander, for the space of three hours, after the rising of the sun and before the setting thereof, or for the space of six hours after the setting of the sun, or for six hours succeeding each other, although such last mentioned hours shall commence before the setting of the sun, (unless the person or persons so absenting him or themselves, shall, by the terms of his or their engagements, have contracted for an absence of longer duration than hereinbefore mentioned,) or hath and still doth refuse to do and perform his duty on board of such ship or vessel or elsewhere, agreeable to his articles of agreement or indenture, as the case may be, such justice before whom such complaint as aforesaid, for such offences or either of them, shall so as aforesaid be made, shall, if thereunto required, immediately grant and issue a warrant, addressed to and authorising

Refusal to do
duty.
Warrant to
issue.

and commanding any constable or constables of the district, for which such justice shall act, to apprehend every such seaman, landsman or apprentice or other person so legally engaged, and who shall be so complained of, as aforesaid, and to bring such seaman, landsman, or apprentice, or other such person who had been so legally engaged, before such justice, to answer unto such complaint, and to be further dealt with according to law ; and if any such seaman, landsman or apprentice, or other such last mentioned person, shall, by such justice be legally convicted of having deserted from such ship or vessel, or of having absented himself from such ship or vessel, without leave, as aforesaid, during such time as aforesaid, or of having refused to do and perform his duty on board of such ship or vessel as aforesaid, and before such justice shall refuse to return on board of such ship or vessel, or to perform his duty as aforesaid, and shall not assign a sufficient reason for such refusals, and each of them, to the satisfaction of such justice, it shall and may be lawful to and for such justice, to commit such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, so convicted, to the common goal or house of correction of the district in which such conviction shall be had, for any time not exceeding twenty days, then to be returned and put on board the ship or vessel, in which such seaman, landsman or apprentice or other such person so legally engaged as aforesaid, shall be so as aforesaid bound and engaged to serve, provided such ship or vessel shall not then have taken her departure ; and if such seaman, landsman or apprentice or other such person so legally engaged as aforesaid, shall, by such justice, be convicted of having conveyed away by himself, or by any other means whatsoever, from such ship or vessel, his clothes or bedding, or those of any other seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, or belonging to the master or commander, mate or mates, or to the owner or owners of such ship or vessel, it shall and may be lawful to and for such justice to commit such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, so convicted, to the common gaol or house of correction of the district in which such conviction shall be had, for any time not exceeding thirty days, then to be returned and put on board the ship or vessel in which such seaman, landsman or apprentice or other such person so legally engaged as aforesaid, shall be so as aforesaid bound or engaged to serve, provided such ship or vessel shall not then have taken her departure ; and if any such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, so as aforesaid convicted of any or either of the offences aforesaid, shall thereafter be legally convicted by and before any justice as aforesaid, of having deserted from such ship or vessel, or of having absented himself from such ship or vessel without leave as aforesaid, during such time as aforesaid, or of having refused to do and perform his duty on board of such ship or vessel as aforesaid, or of having conveyed away by himself, or by any other means whatsoever, from such ship or vessel, his clothes or bedding, or those of any other seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, or belonging to the master or commander, mate or mates, or to the owner or owners of such ship or vessel, it shall and may be lawful to and for such justice to commit such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, so again convicted, to the common gaol or house of correction of the district in which such conviction, for such second offence, shall be had, there to remain for the space of forty days, or until the ship or vessel in which such seaman, landsman

Conviction of
desertion, or
refusal to do
duty.

Committal of
offender.

Conviction of
conveying
away clothes,
bedding, &c.

Committal.

Repetition of
the offence.

Punishment of
the offender on
subsequent
conviction.

Proviso.	<p>or apprentice, or other such person shall be so bound or engaged to serve, shall sail and depart from such district : Provided always, that any such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, so convicted for such second offence, shall not, by virtue of this act, be detained in such common gaol or house of correction upon such conviction, for such second offence, for any time exceeding forty days : And further, that it shall and may be lawful to and for the master and commander of the ship or vessel in which any seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, detained or imprisoned in any such common gaol or house of correction, under and by virtue of this act, is bound or engaged to serve as aforesaid, to have and obtain at any time the discharge of any such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, so detained or imprisoned for such cause (and for no other) from such common gaol or house of correction, upon application for that purpose to the justice by whom such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, shall have been committed ; and such justice upon such application is hereby authorised and required to release and discharge such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, from such common gaol or house of correction, by warrant of deliverance under his hand and seal addressed to the keeper of such common gaol or house of correction, as the case may require : Provided also, that previous to the sailing of such ship or vessel, it shall be incumbent on the master or commander thereof, at whose instance any seaman, landsman, or apprentice, or other such person so legally engaged as aforesaid, shall have been so committed, to apply to the justice or justices of the peace who may have granted the warrant of commitment, or in his or their absence to some other justice of the peace, whose duty it shall be to grant an order in writing directed to the gaoler or keeper of the house of correction, where such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, may be detained, immediately to deliver every such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, into the custody of a constable or constables, to be conveyed on board the ship or vessel to which he or they may belong, on such master or commander paying the gaol fees and other reasonable expenses attending such conveyance or delivery.</p>
Master may procure the discharge at any time.	
Manner of proceeding when seamen, who have been committed to the house of correction, are to be sent on board their ship.	
Fees.	
Seamen, &c. committed to gaol, allowed 1s. 6d. per day, during their detention.	<p>V. And be it further enacted, &c., that to every seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, committed for desertion from any ship or vessel, on complaint of the master or commander thereof, to the common gaol or house of correction, such master or commander shall pay or cause to be paid in advance, for each and every day such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, shall remain in such gaol or house of correction, the sum of one shilling and six pence, current money of this Province, in lieu of provisions ; and in default of such payment by or for such master or commander, upon representation of such default by such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, to any one justice of the peace, in and for the district wherein such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, shall be so confined (if immediate proof of such payment shall not be made by such master or commander to the satisfaction of such justice,) every such seaman, landsman or apprentice, or other such person so legally</p>
But see Tables.	
In default of payment, seamen, &c., to be discharged.	

engaged as aforesaid, shall be discharged and set at liberty, upon the warrant or order of such justice under his hand and seal, directed to the gaoler or keeper of such house of correction, and which His Majesty's justices of the Peace are hereby authorized and required, respectively, to grant.

VI. And be it further enacted, &c., that, from and after the passing of this act, it shall and may be lawful for any one of His Majesty's justices of the peace, on complaint being made before him by the oath of one or more credible witness or witnesses, that any seaman or seamen, landsman or landsmen, apprentice or apprentices, or other such person so legally engaged as aforesaid, in the sea service, are concealed or secreted in any dwelling-house or out-house, or on board of any ship or vessel, or elsewhere, and such justice is hereby required to grant a warrant, under his hand and seal, addressed to a constable or constables of the district, requiring and commanding him or them to make diligent and immediate search, in and about such dwelling-house or out-house, or on board such ship or vessel, or such other place or places as shall be specified in the warrant, and to bring before him every such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, as may be found concealed or secreted, whether named in the warrant or not; and on failure of such seaman or seamen, landsman or landsmen, apprentice or apprentices, or other such person so legally engaged as aforesaid, producing to said justice satisfactory proof of being discharged from the ship or vessel to which he or they last belonged, or of having obtained permission for such absence, from those authorized to give the same, it shall be the duty of such justice to commit each and every such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, to the common gaol or house of correction of the district, for any space of time not exceeding one month, or if the ship or vessel from which such seaman or seamen, landsman or landsmen, apprentice or apprentices, or other such person so legally engaged as aforesaid, shall have deserted, be, at the time of his or their apprehension and commitment, within or near the harbour of Quebec, or any where between that and Montreal inclusive, until the time of the sailing of such ship or vessel from Quebec on her outward voyage, when every such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, shall, in like manner as directed for his apprehension, be conveyed on board of such ship or vessel, and delivered to the master and commander thereof, on payment of all legal fees, disbursements and other reasonable expenses attending such conveyance or delivery.

Justices of the peace empowered to grant a search warrant to search for seamen, &c., unlawfully harboured or secreted.

Justices to commit seamen, &c., brought before him on such warrant and not giving a satisfactory account of themselves.

Fees.

VII. And be it further enacted, &c., that it shall and may be lawful for any one of His Majesty's justices of the peace, on information being given before him, under oath, that any person or persons whatsoever has deserted, or is suspected of having deserted from any of His Majesty's ships or vessels, or from any ship or vessel in the merchant service, and is or are lodged or harboured in any tavern or other house of public entertainment, or in any house of ill-fame, or in any other house whatsoever, to issue an order in writing to the master or keeper of every such tavern, house of ill-fame or other house, commanding such master or keeper to furnish him with a correct list of every such person or persons, stating his or their name and surname as far forth as shall be known to any such master or keeper of every such tavern, house of ill-fame, or other house of public entertain-

Justices of the peace empowered to grant a search warrant for apprehending deserters from H. M.'s service, or the merchant's service lodged or concealed in any tavern, or house of ill-fame, &c.

Penalty on persons keeping any tavern, &c., who shall not make a return of the persons lodged in their houses.

Proviso.

ment, or other person whatsoever, how long he or they has or have lodged in the said house, and the name of the ship or vessel on board whereof each and every of them may have declared himself or themselves to have arrived at the port of Quebec ; and on the refusal or neglect of such master or keeper to comply with such order, within the time specified in such order, or knowingly delivering a false account of such person or persons, such master or keeper shall forfeit and pay a sum not exceeding ten pounds, current money of this Province, for each and every such offence : Provided nevertheless, that in cases in which the party giving such information on oath, seeks to obtain such order against any person, not being a master or keeper of such tavern or house of public entertainment or house of ill-fame, such order shall not be given by any of His Majesty's justices of the peace, unless the person giving the information shall depose on oath, that he verily believes that such person so not being master or keeper of such tavern or house of entertainment or house of ill-fame, doth then harbour or conceal such deserter or person suspected of desertion, and doth also know that the person who has so deserted, or is so suspected of having deserted, is unlawfully and improperly absenting himself from his duty on board the ship or vessel to which he belongs.

Penalty on tavern-keepers, &c., exacting or receiving a reward for procuring seamen.

VIII. And be it further enacted, &c., that if any tavern-keeper or other person keeping a house or other place of public entertainment, shall hereafter exact or receive from the master or commander of any ship or vessel, any sum of money as a reward for procuring a seaman or seamen to serve on board such ship or vessel, that in all such cases, every such tavern-keeper or other person keeping a house of public entertainment, shall, on conviction thereof, forfeit and pay a sum not exceeding twenty pounds, nor less than five pounds, current money ; and further, on each and every subsequent conviction, the licence of every such person to keep such tavern, house or place of public entertainment, shall be null and void, and shall so continue for twelve months, and further until the judgment of the court before which the offence shall have been tried, shall be certified by the clerk of the peace of the district to have been fully satisfied.

Manner of distinguishing between seamen who are or are not discharged. Duty of the harbour master in such case.

IX. And be it further enacted, &c., that in order to enable the tavern-keepers and others, the better to distinguish between those seamen and landmen, or such other persons so legally engaged as aforesaid, that are or are not discharged, it shall be the duty of the harbour master of Quebec, for the time being, to provide a sufficient number of blank discharges agreeable to the form hereunto annexed, countersigned by himself, and to distribute the same to the masters of all ships and vessels, on their arrival in this port, in such number as they may severally require, to be by them filled up, signed and delivered to every seaman or landsman, or such other person so legally engaged as aforesaid, they may discharge ; for which blank forms the said harbour master of Quebec may lawfully ask and receive from each of the said masters of ships or vessels, a sum not exceeding twelve pence, for each and every form they may so require : And any master of such ship or vessel who shall refuse to fill up, sign and deliver such form of discharge to any seaman or landsman, or such other person so legally engaged as aforesaid, requiring the same, such seaman or landsman being legally entitled to a discharge from such ship or vessel in this port, shall forfeit and pay the sum of twenty pounds, for each and every such offence.

Penalty on master refusing to give a discharge.

FORM FOR THE DISCHARGE OF A SEAMAN OR LANDSMAN FROM ANY
SHIP OR VESSEL.

These are to certify to all whom it may concern, that
seaman (or landsman) the bearer hereof, aged _____ years Form of the
discharge.
hair _____ complexion _____ feet high _____ made, is hereby
discharged from the ship _____ under my command, and has received
his wages, all legal stoppages being first made.

Witness, my hand, at Quebec, _____ 18 _____ as the law
directs.

Harbour Master of Quebec.

X. And be it further enacted, &c., that it shall and may be lawful for Constable, &c.
each and every constable and other officer, who shall be employed in the employed, to
execution of any warrant for the apprehension of, or in search of, or for receive a rea-
the delivery of any person or persons against whom a warrant or warrants sonable recom-
may be issued by virtue of this act, to exact and demand from the person pense.
at whose request such warrant shall have been issued, a reasonable recom-
pence for the time he or they shall have been employed, subject to be taxed
by the justice of the peace who may have issued such warrant,—and in
cases within the jurisdiction of the court of vice admiralty, according to
the legal course of that court,—and recoverable, on refusal of payment, in a
summary way by warrant of distress and sale of such person's goods and
chattels; which warrant every such justice of the peace is hereby authorised
and required to grant, under his hand and seal, on proof of such refusal of
payment.

XI. Provided nevertheless, and it is hereby also enacted, &c., that Warrant, &c.
nothing in this act contained, shall be construed to extend to authorize or within the ju-
justify the execution of any warrant or process of any justice or justices of risdiction of the
the peace within the jurisdiction of the vice admiralty of this Province, un- vice admiralty,
less such execution shall have been previously authorised by the judge of to be authoris-
the said court of vice admiralty. ed by the
judge.

XII. And be it further enacted, &c., that all and every fine and for- Fines, &c.,
feiture incurred by virtue of, and under the authority of this act, shall how recovera-
and may be sued for within six months after the offence committed, and ble.
recovered in a summary manner before any two or more of His Majesty's
justices of the peace for the district wherein the offence shall have been
committed, on the oath of one or more credible witness or witnesses, other
than the informer, which oath the said justices are hereby empowered and
authorised to administer; and in case of non payment, shall be levied by
distress and sale of the offender's goods and chattels, by warrant under the
hands and seals of such justices of the peace, directed to a constable or
other peace officer, and the overplus, if any, after deducting the penalty
and costs of suit, together with the expenses of the distress and sale, shall
be returned to the owner; and for want of sufficient distress, the offender
or offenders shall be committed, by warrant under the hands and seals of Commitment for
such justices, to the common gaol of the district, for any time not exceed- want of dis-
ing six months. tress.

XIII. And be it further enacted, &c., that all fines by this act imposed, Fines how to
shall belong, one half to the informer, and the other half shall be paid into be disposed of.
the hands of His Majesty's receiver general, to and for the use of His
Majesty, His Heirs and Successors, and towards the support of the civil

government of this Province ; and shall be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury, in such manner and form as His Majesty, His Heirs and Successors shall, from time to time, be graciously pleased to direct.

This act to be publicly read once in every year by the clerks of the peace.

XIV. And be it further enacted, &c., that this act shall be once in each year, publicly read on the first day of the term of the court of quarter sessions for the month of April, in and during the sittings of the said courts for the districts of Quebec, Montreal and Three-Rivers, respectively, by the clerks of the peace for the said districts, who shall make an entry in the registers of the said courts that this act was so read publicly.

9. FORESTALLING, REGRATING, &c.

17 Geo. III. Cap. 4. An Ordinance for regulating the Markets of the Towns of Quebec and Montreal.

All provisions, &c., to be carried to the market places.

See Tables.

Penalty on hucksters, &c. buying on the road to market.

For preventing provisions being brought to market, &c.

No huckster, &c. to buy to sell again, before 10 o'clock in summer or 12 in winter.

Penalty.

Provisions and provender brought in sloops, &c., may be sold on board, giving notice.

Penalties for contravention.

IT is ordained and enacted by His Excellency the Captain General and Governor in chief of this Province, by and with the advice and consent of the legislative council of the same, that from and after the publication of this ordinance, all kinds of live stock (horned cattle excepted) and all kinds of provision and provender whatsoever, which shall be brought to the towns of Quebec and Montreal for sale, shall be carried to the public market places of these towns, and there exposed ; and if any butcher, huckster or other person, buying to sell again, shall buy or contract for, or cause to be bought or contracted for, any kind of provision or provender in the road, or in the street, coming to market, such butcher, huckster, or other person, buying to sell again, shall for every such offence, forfeit the sum of five pounds ; and any person who does not buy to sell again, shall, if guilty of the said offence, forfeit the sum of twenty shillings ; and if any person whatsoever shall dissuade or deter any person from bringing any kind of provision or provender to market, or from selling the same, when brought to market, or shall persuade any person to enhance the price of such provision or provender ; such person, so offending therein, shall forfeit the sum of five pounds.

II. No butcher, huckster, or other person buying to sell again, shall, on any pretence, purchase or contract for, or cause to be purchased or contracted for, any kind of provision or provender brought to the market of either of the said towns, before the hour of ten in the forenoon, from the first day of May to the thirtieth day of September, nor before the hour of twelve at noon, from the first day of October to the thirtieth day of April, under a penalty on such butcher, huckster, or other person buying to sell again, before the said hours, of five pounds for every such offence.

III. Any person bringing live stock, or any other kind of provision or provender, to either of the said towns, in schooners, sloops, or other such like craft, shall be at liberty to sell the same on board, an hour after notice shall have been given to the inhabitants of the town, by the bellman ; any person purchasing any of the above articles, on board, before the said notice shall have been given, shall forfeit the sum of twenty shillings ; and no butcher, huckster or other person buying to sell again, shall purchase any such provision or provender, until three hours after such notice, under a penalty of five pounds for every such offence.

IV. All provisions coming to either of the said towns in canoes, shall be carried to the market place, and there exposed to sale : and any person purchasing such provisions, before the same shall be brought to the market place, shall forfeit twenty shillings. Provisions coming in canoes.

V. All blown meat, and meat fraudulently or deceitfully set off, all veal under three weeks old, and all tainted meat, fish, or other provisions whatever, shall be forfeited ; to be disposed of, in such manner as the commissioner of the peace, to whom complaint shall be made, may direct. Bad meat, or provisions to be forfeited.

VI. Any person who shall take, or attempt to take, forcibly, and at an arbitrary price, any commodity brought to market, shall forfeit the sum of ten shillings. Penalty for taking any commodity by force.

VII. All penalties and forfeitures incurred by offences against this ordinance, shall be recovered by information before any one commissioner of the peace, who shall hear and determine the same in a summary manner, upon the oath of one credible witness (being some other than the informer) and shall cause the sum forfeited, together with the costs of suing for the same, to be levied by a warrant under his hand, to seize and sell the goods of the offender ; one half of such forfeitures (except in the case of the fifth article) shall belong to His Majesty the King, and the other half to the informer : And it shall be lawful for any commissioner of the peace, to convict any person, guilty of any offence against this ordinance, on his own view of such offence ; in which case, the whole forfeiture (except in the case mentioned in the fifth article) shall belong to His said Majesty. Manner of recovering the penalties and forfeitures. Conviction on view.

All prosecutions for offences against this ordinance, shall be begun within fifteen days from the commission of the offence. Prosecutions when to be commenced.

10. SUNDAYS, SALE OF LIQUORS, &c., ON.

An Act to prohibit the sale of Goods, Wares and Merchandise, Wine, Spirits and other Strong Liquors, on Sundays. 45 Geo. III. Cap. 10.

WHEREAS in defiance of the laws as well divine as human, shopkeepers, hawkers, pedlars and petty chapmen, tavern-keepers and other persons keeping houses of public entertainment, in the cities and towns, and especially in the country parishes of this Province, do sell, vend and retail goods, wares and merchandise, wine, spirits and other strong liquors, on the Lord's day, commonly called Sunday ; in order, therefore, to remedy such immoral and irreligious practices :—Be it declared and enacted, &c., that from and after the first day of May next, no shop-keeper, pedlar, hawker, petty chapman, tavern-keeper or other persons who keep a public house of any description whatsoever, in any part of this Province, shall sell, vend or retail any goods, wares or merchandise, wine, spirits or any other strong liquors, during the Lord's day, commonly called Sunday ; and that all and every person or persons of the description abovesaid, who shall sell, vend or retail such goods, wares or merchandise, wine, spirits or other strong liquors on the Lord's day, as aforesaid, shall incur and pay for the first offence, a fine or penalty which shall not exceed five pounds, and for the second and every subsequent offence, shall incur and pay a fine or penalty, not less than five nor more than ten pounds, current money of this Province. Preamble. Penalty on any shop-keeper, &c., who shall sell any goods, &c., on a Sunday. See Tables.

Not to prevent selling wine, &c., to sick persons and travellers, nor the estates of minors, &c., on Sundays.

II. Provided always, and be it further enacted, &c., that this act shall not extend or be construed to extend, to hinder the said shop-keepers, tavern-keepers, and other persons who keep public houses, to sell and furnish, on the Sunday, wine, spirits or other strong liquors, for the use of sick persons, and to travellers at their meals : Provided also, that the present act shall not extend or be construed to extend, to prevent selling at the church doors of the country parishes on Sundays, the *usufruit* or produce of the estates of minors, absentees or persons that are interdicted, or the effects arising from public gatherings, for the benefit of churches, or those destined for pious purposes.

Fines, &c., how recoverable.

III. And be it further enacted, &c., that the fines and forfeitures imposed by this act, shall be recovered before one of His Majesty's justices of the peace nearest to the place where the offence against this act shall have been committed, and he is hereby authorised and required to hear and determine such offence in a summary way, either by voluntary confession of the party accused, or upon the oath of one or more credible witnesses, other than the prosecutor, which oath the said justice of the peace is hereby authorised to administer ; and in all cases where there is a default of payment of the sum forfeited, it shall be recovered by seizure and sale of the offender's goods and chattels, by warrant or order, under the hand and seal of such justice, addressed to any peace officer or sergeant of militia, and the surplus of the money so recovered, (if any there be,) after deducting the forfeiture and reasonable charges of seizure and sale, taxed by a justice of the peace, shall be returned to the owner.

See *Table*.

One moiety of the fines to the prosecutor, the other moiety to His Majesty.

IV. And be it further enacted, &c., that the one moiety or half of the fines and forfeitures imposed by this act, shall belong to the person or persons prosecuting any such offender or offenders, and that the other moiety or half part thereof, shall be paid to the receiver general for the use of His Majesty, His Heirs and Successors, and shall remain in the hands of the said receiver general for the future disposition of the legislature of this Province, and shall be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury, in such manner and form as His Majesty, His Heirs and Successors, shall direct.

Limitation of actions.

V. Provided always, and be it further enacted, &c., that no suit or action shall be instituted against any person for any fine or forfeiture imposed by this act, that shall not be commenced within two months after the offence committed.

11. CHURCHES, GOOD ORDER IN.

7 Geo. IV. Cap. 3.

An Act more effectually to provide for the maintenance of good order in Churches, Chapels and other places of Public Worship, and for other purposes therein mentioned.

Preamble.

WHEREAS it is expedient to repeal an act passed in the first year of His Majesty's reign, chapter one, and a certain other act passed in the fourth year of His Majesty's reign, chapter thirty-five, and to substitute other enactments instead thereof :—Be it therefore enacted, &c., that the said act, &c., (1 Geo. 4, c. 1,) and the said act, &c., (4 Geo. 4, c. 35,) shall be, and the same are hereby repealed.

Repeal of 1 Geo. 4. Cap. 1, and 4 Geo. 4. Cap. 35.

II. And be it further enacted, &c., that it shall be the duty of the church-wardens in office in each of the parishes and settlements of this Province, to keep up and maintain good order in and about the church or chapel, or other place used for public worship, of each of the said parishes or settlements respectively, as well within as without the said churches and chapels or other places used for public worship of each of the said parishes or settlements respectively, and in the public hall attached or adjacent to the parsonage house or presbytery, as also in the roads or public places adjoining the same, and to enforce the present act, and to prosecute offences committed against the same; and all and every church-warden or church-wardens who shall refuse or neglect to do the duties so imposed upon them, in their capacity aforesaid, shall incur and pay, for every neglect or refusal, a sum not less than ten shillings, and not exceeding forty shillings, currency.

Duty of the church-wardens in and about the churches in this Province.

Penalty for neglect.

III. And be it further enacted, &c., that any person or persons who shall cause any disturbance in the church, chapel, or other place used for public worship, in any parish or settlement in this Province, during divine service, or shall in any wise indecently or irreverently conduct himself in or about such church or chapel, or other place used for public worship, or shall resist the church-wardens, or other person or persons in the execution of the duties imposed on him or them by this act, or insult them, shall and may be forthwith arrested by any or either of the said church-wardens, or by any constable or peace officer, and be conducted before a justice of the peace; and upon the oath of such church-warden or church-wardens, constable or peace officer, or of one or more credible witness or witnesses, declaring that such person or persons has or have caused any such disturbance, or conducted himself or themselves irreverently, or otherwise misdemeaned himself or themselves as aforesaid, or on confession of the offender, the said justice of the peace shall fine such person or persons in a sum not exceeding forty shillings, currency, nor less than five shillings, currency; and if such person or persons shall be unable forthwith to pay such fine, he or they shall and may, by warrant under the hand and seal of such justice, be committed to the common gaol of the district where the offence shall have been committed, there to remain for the space of fifteen days, unless such fine be sooner paid: and any person or persons who shall cause any disturbance, or shall remain or loiter without any such church or chapel, or other place used for public worship, or in the highways and public places adjacent thereto, or in the public hall attached or adjacent to the parsonage house or presbytery, or who so remaining and loitering without the said church, chapel or other place used for public worship, or in the highways and public places adjacent thereto, shall, upon being directed to retire or to enter the said church or chapel, or other place used for public worship, during divine service, refuse or neglect so to do, shall and may be arrested by any or either of the said church-wardens, and be conducted before a justice of the peace; and on oath made by such church-wardens or either of them, or of one or more credible witness or witnesses, that such person or persons hath or have so made any disturbance, or loitered without any such church, chapel or place of public worship as aforesaid, or hath or have refused, in manner aforesaid, to retire or to enter such church, chapel or place of public worship, or on confession of the offender, such justice of the peace shall fine such person or persons in a sum not exceeding twenty shillings, nor less than five shil-

Penalty on persons causing disturbance in churches, &c.

Penalty.

How enforced.

Persons loitering, &c., outside.

Penalty.

How enforced. lings ; and if such person or persons shall be unable forthwith to pay such fine, he or they shall and may, by warrant under the hand and seal of such justice, be committed to the common gaol of the district where such offence shall have been committed, there to remain for the space of eight days, unless such fine be sooner paid.

Offenders may be sued at any time within three months. IV. Provided always, and be it further enacted, &c., that any person or persons offending as above or hereafter mentioned, although not forthwith arrested, may nevertheless be sued for the offence at any time within one month next after the commission of the same, before any justice of the peace, and upon conviction be fined or imprisoned as in and by this act it is specified and provided.

Powers granted to officers of militia, &c. V. And be it further enacted, &c., that all officers and sergeants of militia, and other peace officers in each parish, seignior, township or settlement, or other extra-parochial place, shall have the same powers as those delegated to the church-wardens by this act, in the execution of the duties imposed upon them by the same.

Penalty on persons loitering and tippling in public houses during divine service. VI. And be it further enacted, &c., that it shall be the duty of every officer and non-commissioned officer of militia, or other peace officer, to cause to be arrested and carried before any justice of the peace, all and every person or persons whom he or they may find, during any Sunday or holiday, during divine service, loitering or tippling in any house of public entertainment, or in any place of public resort, whether within doors or in the open air, where any ale, wine, spirits or strong drink may be sold or distributed on a Sunday or holiday, during divine service as aforesaid, within the limits of their parishes or settlements respectively, and also each and every person whom they may find cursing and swearing or provoking to fight, drunk, or using violence in the streets, highways or other public places, and such person so conducted before such justice of the peace, may, on conviction, be condemned to pay a fine not exceeding twenty shillings, nor less than five shillings, currency : and if such person shall be unable to pay such fine forthwith, he shall and may be committed, by warrant under the hand and seal of such justice of the peace, to the common gaol of the district in which such offence shall have been committed, there to remain for the space of eight days, unless such fine be sooner paid.

Penalty on persons riding or driving fast near churches, &c. VII. And be it further enacted, &c., that any person attending at, as well in going to as returning from divine service at any such church, chapel, or other place used for public worship, who shall, on approaching to or returning from the same, within the distance of ten arpents therefrom, drive, whether on horseback, or in a carriage, at any faster pace than a slow and moderate trot, shall, for every such offence, incur a penalty not exceeding ten shillings, nor less than five shillings, currency.

Constables may be appointed to assist church-wardens. VIII. And be it further enacted, &c., that it shall be lawful for any two justices of the peace, on the request of the church-wardens aforesaid, or any rector or priest officiating in any church or chapel within this Province, to appoint one or two constables for the purpose of assisting the church-wardens in office, in the performance of the duties imposed upon them under and by virtue of this act, which constables shall obey the orders and directions which, from time to time, shall be given to them by the said church-wardens in office, and may be prosecutors of persons offending against this act.

IX. And be it further enacted, &c., that all penalties and forfeitures by this act imposed, for any offence against the same, shall be levied by distress and sale of the goods and chattels of the offender, by warrant of distress, under the hand and seal of a justice of the peace for the district or county where such offence, neglect or default shall happen, rendering the overplus of such distress (if any there be) to the party or parties, after deducting the costs of suit and the charges of making the distress; which warrant such justice of the peace is hereby empowered and required to grant, after complaint or information to him made or given, upon conviction of the offender by confession or upon the oath of one or more credible witness or witnesses; and all the penalties and forfeitures levied under the authority of this act, shall be paid, one half to the informer and the other half to His Majesty, His Heirs and Successors: Provided always, that no church-warden, constable or peace officer, prosecuting as such, shall be entitled by this act to any part of any fine, but shall be only entitled to recover his costs: Provided always, that all suits or actions for offences against this act shall be commenced within one month next after the commission of the offence, and not afterwards.

Penalties and forfeitures, how to be recovered.

Proviso.

Limitation of action.

X. Provided always, and be it further enacted, &c., that any church-warden, constable or peace officer shall be deemed, in all cases, a competent witness in all matters relative to the execution of this act, as well as of a certain other act, passed in the forty-fifth year of the reign of His Majesty, George the Third, intituled, *An act to prohibit the sale of goods, wares and merchandise, wines, spirits and other strong liquors on Sundays*, notwithstanding he may be the prosecutor or informer, for any offence, neglect or default against either of the said acts.

Church-wardens, constables, &c., to be competent witnesses in certain cases.

XI. And be it further enacted, &c., that if any action, bill or plaint be brought against any church-warden or church-wardens, constable or peace officer as aforesaid, for any thing done in virtue of this act, he or they may plead the general issue, and give the special matter and this act in evidence; and if a judgment or verdict is given against the plaintiff, or he shall become non-suit or discontinue his suit or action, in every such case the judge before whom the said matter shall have been brought or tried, shall allow to the defendant double costs.

General issue in actions against church-wardens, &c.

Double costs.

XII. And be it further enacted, &c., that separate copies of this act, and of the fifth section of an act of the British parliament, passed in the fourteenth year of the reign of His late Majesty, George the Third, chapter eighty-eight, and of the first, seventh and ninth sections of an act of the legislature of this Province, of the thirty-fifth year of the reign of His late Majesty, George the Third, chapter eight, and an act passed in the forty-fifth year of the reign of His late Majesty, George the Third, chapter ten, shall be forwarded in the same manner as the laws enacted in this Province are now forwarded to the curate of each parish within this Province, to be by such curate delivered over to the church-warden on duty (*en charge*) for the time being, to be by him handed over to his successors in office, to be preserved among the papers of the *fabrique*, and to be read yearly at the first general meeting of the church-wardens, after the election of any church-warden or church-wardens, which church-warden or church-wardens shall read the same, or cause the same to be publicly read at the church door of the parish, on the three first Sundays of September in every year, immediately after divine service in the morning, under a penalty of twenty shillings, currency, for each and every offence.

This act with certain parts of other acts to be forwarded to the curates.

Fines under
this act, how to
be applied and
accounted for,
&c.

XIII. And be it further enacted, &c., that all fines imposed and levied in virtue of the present act, shall be applied to the public uses of the said Province, and towards the support of the government thereof, and the same shall be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall please to direct.

12. WHARFINGERS, UNCLAIMED GOODS.

2 Will. IV.
Cap. 32.

An Act to compel Wharfingers and others to advertise unclaimed goods in their possession.

Preamble.

All wharfingers, &c., to advertise in the newspapers a list and description of unclaimed goods remaining in their custody.

WHEREAS serious losses have been sustained and much inconvenience suffered, by many of His Majesty's subjects and others in this Province, in consequence of the mis-directing, mis-delivery, mis-sending and mis-carriage of packages of goods, parcels, and other articles, to, from, and by ships, vessels, steam-boats, stages, carts, sleighs, and other conveyances, whereby many articles remain unclaimed and become lodged in stores, warehouses, and other places, without its being known to whom they belong, or ought to be delivered; and whereas it is expedient to provide, as much as possible, a remedy for such losses and inconvenience:—Be it therefore enacted, &c., that from and after the passing of this act, every and all wharfingers, warehouse-keepers, agents, steam-boat proprietors or companies, canal or rail-way officers and servants, stage proprietors, and other persons, in whose custody any such unclaimed goods or articles may remain, shall advertise once in every month, in at least one newspaper printed in the city of Quebec, and in one printed in the city of Montreal, a list and description, with the marks, numbers and addresses, if such there be, of such unclaimed goods and articles as may remain at the time in their custody, together with a notice to all persons who may claim any of the same, to come forward within six months from the date of such notice, to prove their property and receive the same, upon payment of any charge for freight, carriage or otherwise that may have accrued thereon, with a proportionate part of the expense of advertising, and a reasonable charge for wharfage or storage; and with a further notice, that at the expiration of the said six months, the packages, parcels and other articles that shall then remain unclaimed, shall be opened, examined, and if nothing appears therein whereby to ascertain the names of the owners, consignees, or persons entitled to receive the same, that then, at the expiration of six months thereafter, the same shall be sold by public auction, and the proceeds, deducting all expenses, deposited in the hands of the receiver general of this Province: Provided always, that fruit or other perishable articles shall be immediately advertised, and may be sold within one week after the date of such advertisement.

Proviso.

Duty of persons in whose possession packages, &c., remain.

II. And be it further enacted, &c., that if, upon opening such packages or parcels, the names of the owners, consignees, or persons entitled to receive the same, are ascertained, it shall be the duty of the person or persons in whose possession such packages or parcels remain, to send by post or otherwise a written notice to such owners, consignees, or persons entitled to receive the same, with an intimation, similar to the advertisement above enjoined, to come and claim the same within six months, and that in default thereof they will be sold by public auction, as provided in the first section.

III. And be it further enacted, &c., that immediately after the expiration of twelve months, from the time when such unclaimed articles shall have been advertised in the manner hereinbefore provided, the person or persons in whose custody the same shall be, shall cause the same or such parts thereof as shall then be unclaimed to be sold by public auction, and shall forthwith cause the proceeds of such sale, after deducting the charges and expenses as aforesaid, to be paid to the receiver general of the Province, and shall deposit with the receiver general a separate account of sales for each package, which shall remain in the office of the said receiver general, subject to all further authenticated claims for any part of the said proceeds.

Period after which unclaimed articles may be sold.

IV. And be it further enacted, &c., that if any person or persons in whose custody such unclaimed articles may remain, shall neglect to comply with the provisions contained in the foregoing sections of this act, he or they shall incur a penalty not exceeding one-fourth of the appraised value of the goods so detained, one moiety of which shall belong to His Majesty for the public uses of the Province, and the other to the informer; and that the same shall be sued for and recovered before any justice of the peace for the district, on the oath of one or more credible witness or witnesses, other than the informer, which oath such justice of the peace may administer; and in default of immediate payment, the same shall be levied with costs, by distress and sale of the offender's goods and chattels, under a warrant signed by any justice of the peace.

Penalty on persons not complying with the provisions of this act.

V. And be it further enacted, &c., that any person whose goods, effects or property shall have been sold, and the proceeds thereof paid to the receiver general in the manner hereinbefore provided, shall, at any time thereafter, be entitled to receive the amount of such proceeds from the said receiver general upon a warrant to be for that purpose issued by the Governor, Lieutenant Governor, or person administering the government of this Province, after sufficient proof being given that the person so claiming the said proceeds is legally entitled to the same.

Persons whose goods may have been sold may receive the amount in certain cases.

VI. And be it further enacted, &c., that if any dispute shall arise between the claimant of such articles and the person or persons in whose possession they may be, either with respect to the legality of the claim, or with respect to the amount charged for expenses thereon, and storage or wharfage, the same shall be determined in a summary way before a justice of the peace, within four days after application shall be made to him for that purpose by either of the parties; and the costs thereof, which shall in no case exceed in the whole the sum of ten shillings, currency, shall be paid by the party against whom such decision shall be made, and in default of payment, be levied by distress and sale of the goods and effects of such party, under a warrant signed by any justice of the peace.

Disputes between claimants of articles, they may be, how to be determined.

VIII. And be it further enacted, &c., that the penalties by this act imposed appertaining to His Majesty, shall be at the disposal of the provincial legislature for the public uses of the Province and for the support of the government thereof; and that the due application of the same shall be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall be pleased to direct.

Penalties how to be disposed of.

13. GUNPOWDER, IMPROPER STORING, &c. OF.

33 Geo. III.
Cap. 1.

An Act to prevent the bringing of Gunpowder in ships or other vessels into the Harbour of Montreal, and to guard against the careless transporting of the same into the Powder-Magazines.

Preamble.

WHEREAS the bringing of gunpowder on board of ships or other vessels into the harbour of Montreal is attended with great risk and danger to the town and alarming to the inhabitants thereof, by reason of the proximity of the buildings to the harbour or usual place of unloading at the market gate ; and whereas the landing of gunpowder from on board of ships or other vessels, and the carting thereof into the powder magazines may, if not carefully attended to, be productive of the most fatal effects :—

No vessel to enter the harbour of Montreal with more than five pounds of gunpowder.

Be it therefore enacted, &c., that from and after the publication of this act, it shall not be lawful for the master or masters of any ship or other vessel to enter into the harbour of Montreal, which shall be considered for this purpose to extend to the channel on the off-side of the little island near to the town, with more than five pounds of gunpowder on board any such ship or other vessel, under the penalty of ten pounds, current money of this Province : Provided always, that it shall be lawful to all and every master or masters of ships or other vessels, on arriving at the cross or foot of the current near to the town of Montreal, there to unload and land the gunpowder he or they shall have on board of their respective ships or other vessels.

Proviso.

On landing gunpowder, boats to be covered with tarpaulings.

II. And be it enacted, &c., that all and every master or masters of ships or other vessels, in the landing of gunpowder at Montreal aforesaid, shall employ boats or bateaux, every and each of which shall have sufficient tarpaulings or oil cloths to cover the said gunpowder, under the penalty of forty shillings, for each boat or bateau which shall not be so provided and covered.

Manner of landing gunpowder.

III. And be it further enacted, &c., that all gunpowder coming from on board of any ship or other vessel, in boats or bateaux, as aforesaid, shall be landed by the master of such ship or other vessel, at the gate of the town, commonly called the barrack gate, if such gunpowder is to be stored in the powder magazine in the barrack yard, and on the beach above the wharf or quay, commonly called Franchère's, if to be stored in the powder magazine near to the English burying ground, or by entering into the little river in bateaux land such powder, at the Grey Sisters' Bridge, under the penalty of four pounds, currency of the Province.

But see Tables.

Manner of transporting gunpowder after landed to the magazines.

IV. And be it enacted, &c., that in the carting or transporting of gunpowder in carts, trucks or other carriages, each shall be provided with an oil cloth or tarpauling, sufficient for covering such gunpowder, and all gunpowder landed near to the powder magazine in the barrack yard, shall be transported through the barrack gate direct to said magazine, and all gunpowder to be stored in the powder magazine near to the English burying ground, shall be transported to the said magazine by the Recollets' gate, and thence along the ramparts behind the houses of that part of the town of Montreal aforesaid, under the penalty of forty shillings for every cart or truck transporting gunpowder, contrary to this act : and all penalties and forfeitures incurred under this act, shall be sued for within eight days after the offence committed, before any two or more of His Majesty's justices of the peace for the district of Montreal, in their weekly sittings ; one half

But see Tables.

Penalties how recovered and fines applied.

thereof to belong to the informer and the other half to the King : and the said justices of the peace are hereby authorized and required, to hear and determine the same on the oath of one credible witness, other than the informer, and to levy the same with costs of suit, by warrant of distress and sale of the guns, boats, tackle and apparel and furniture of such ship or other vessel, or of the goods and chattels of other persons offending in these premises, under the hand and seals of such justices of the peace, directed to any constable, rendering the surplus, if any, after deducting the costs and charges of distress and sale, to the master or person having command of such ship or other vessel, or to other persons to whom of right it may appertain : and the fines, forfeitures and penalties hereby granted and reserved for the Crown, are to be for the public uses of this Province, and for the support of the government thereof, and shall be accounted for to the Crown through the commissioners of the royal treasury for the time being, as the Crown shall direct.

An Ordinance to provide more effectually for the safe storing 3 & 4 Vict.
and keeping of Gunpowder within and near the City and Cap. 33.
Town of Montreal.

WHEREAS it is expedient and necessary to make more effectual Preamble.
provision for the safe storing and keeping of gunpowder in and near the city and town of Montreal :—Be it therefore ordained and enacted, &c., that from and after the first day of July, now next ensuing, it shall not be lawful for any person or persons whomsoever, to store, keep or have, within the city or town of Montreal, or within three miles from the boundaries thereof, any quantity of gunpowder exceeding in weight twenty-five pounds, at any one time, in any house, building or place other than and except in a building or buildings constructed or to be constructed of stone, covered with metal, made fire proof, and furnished with proper lightning rods or conductors, and at the distance of at least two hundred feet, on every side, from any other building whatever ; which building or buildings constructed and completed as aforesaid, before any gunpowder shall be stored or kept therein, shall be certified by a person of competent skill, to be sufficient for the safe storing and keeping of gunpowder therein, and shall be approved of as being sufficient for that purpose by two or more of the justices of the peace resident in the said city or town of Montreal.

Not more than 25lbs gunpowder to be kept within the city and town of Montreal, or within 3 miles thereof.

The building to be of a peculiar construction and approved.

II. And be it further ordained and enacted, that any person or persons who shall store, keep or have any quantity of gunpowder exceeding the said quantity of twenty-five pounds, at any one time, in any building or place within the limits aforesaid, other than and except in a building constructed, covered, furnished and situated as aforesaid, shall forfeit to Her Majesty, Her Heirs and Successors, for every such offence the sum of ten pounds, sterling money of Great Britain ; and all and every such gunpowder so stored or kept, contrary to the provisions of this ordinance, shall be and remain forfeited to Her Majesty, Her Heirs and Successors.

Persons keeping more in any other building, to incur a penalty and forfeiture.

III. And be it further ordained and enacted, that one half of the said penalty of ten pounds, and of the gunpowder forfeited in virtue of this ordinance, shall belong to the person who shall sue for the same within three months from the commission of the offence, and one half thereof disposed of.

How the penalty and forfeiture are to be recovered and disposed of.

to Her Majesty, Her Heirs and Successors; and the said penalty may be sued for and recovered, and the forfeiture of gunpowder, in pursuance of this ordinance, be declared and adjudged in any court of record in this Province, or by and before any two justices of the peace for the district of Montreal, who may cause the said penalty, with costs, to be levied by and under their warrant of distress, after conviction of the offender or offenders, on the oath of one or more credible witness or witnesses other than the informer, and shall and may declare and adjudge such forfeiture of gunpowder as aforesaid, and that the same be sold and the proceeds thereof divided under their authority, according to the provisions of this ordinance.

Proceedings in cases of information that there is more than 25lbs. stored in any building within the prescribed limits.

IV. And be it further ordained and enacted, that it shall be lawful for any justice of the peace for the district of Montreal, on information and complaint on oath made before him, or on complaint by any two or more householders, being inhabitants within the said limits, assigning a reasonable cause for believing that any quantity of gunpowder exceeding in weight twenty-five pounds, is stored or kept within the limits aforesaid, contrary to the provisions of this ordinance, to issue his warrant under his hand and seal, to be directed to one or more constables of the said city and town of Montreal, for the seizure of the said gunpowder and for the conveyance of the same to a place in which it may be lawfully stored and kept with safety; and the constable or constables charged with the execution of any such warrant, shall have full power and authority to enter into, and, if there shall be occasion, to break open the door of the house, building or place mentioned in such warrant, in the day time only, and there search for, seize and secure such gunpowder, to be conveyed, as aforesaid, and to be detained until it shall be determined, in due course of law, as aforesaid, whether the same hath been or shall be declared forfeited by virtue of this ordinance.

Not to affect any storehouse or magazine belonging to His Majesty.

V. Provided always, and be it further ordained and enacted, that this ordinance or any thing therein contained, shall not be construed in any manner to relate to, or affect any store-house or magazine belonging to Her Majesty, Her Heirs or Successors, wherein gunpowder or other stores shall be kept for the use of the public, or to the conveyance of gunpowder to or from Her Majesty's magazines, or by Her Majesty's forces employed on military service.

This ordinance to be permanent.

And a public act.

VI. And be it further ordained and enacted, that this ordinance and the provisions therein, shall not cease or expire on the first day of November, which will be in the year of our Lord one thousand eight hundred and forty-two, but shall be and remain a permanent law, and in full force in this Province, until the same shall be repealed or altered by competent legislative authority; and shall also be held and taken to be a public act, and as such judicially taken notice of in all courts, and by all judges, justices and others, without specially pleading the same.

59 Geo. III. Cap. 9.

An Act to prevent accidents in the landing of Gunpowder from ships or other vessels in the Harbour of Quebec, and to guard against the careless transporting of the same into the Powder Magazines.

Preamble.

WHEREAS the bringing of gunpowder on board of ships or other vessels into the harbour of Quebec is attended with great risk and danger to the town, and alarming to the inhabitants thereof, by reason of

the proximity of the buildings to the harbour or usual place of unloading ; And whereas the landing of gunpowder from on board of ships or other vessels, and the carting thereof into the powder magazines may, if not carefully attended to, be productive of the most fatal effects :—Be it therefore enacted, &c., that from and after the passing of this act, it shall not be lawful for the master or masters of any ship or other vessel, having on board more than five pounds of gunpowder, to bring alongside or make fast such ship or other vessel to any wharf or quay in the port of Quebec, under a penalty not exceeding one hundred pounds, nor less than twenty pounds, current money of this Province.

Ships loaded with gunpowder not to bring to alongside any wharf.

II. And be it further enacted, &c., that all and every master or masters of ships or other vessels, in the landing of gunpowder at Quebec aforesaid, shall employ boats or bateaux, every and each of which shall have sufficient tarpaulings or oil-cloths to cover the said gunpowder, under the penalty of ten pounds, current money of this Province, for each boat or bateau which shall not be so provided and covered.

Masters to employ boats for landing gunpowder with sufficient tarpaulings. Penalty.

III. And be it further enacted, &c., that all gunpowder coming from on board of any ship or other vessel in boats or bateaux as aforesaid, shall be landed by the master of such ship or vessel during high water, at the following places, that is to say : at the landing place at the foot of the *Canoterie* hill with respect to gunpowder which is to be conveyed to the magazines situate east of Palace-gate, and at the place commonly called *the landing place*, facing the King's fuel yard, in Saint Charles ward, adjacent to Palace-gate, with respect to gunpowder which is to be conveyed to the magazines situate south of Palace-gate aforesaid, under the penalty of ten pounds, current money of this Province.

Gunpowder to be landed at high water.

Places for landing.

Penalty.

IV. And be it further enacted, &c., that in carting or transporting of gunpowder in carts, trucks, or other carriages, each one shall be provided with an oil cloth or tarpauling sufficient for covering and enveloping such gunpowder ; and all gunpowder which shall be landed at the landing places abovementioned, shall be transported through Palace-gate or Hope-gate, and from thence by the shortest route to such of His Majesty's magazines as may be fit to receive the same, according to such directions as may be given in that respect by any justice of the peace, under the penalty of five pounds, current money of this Province, for every cart, or truck transporting gunpowder contrary to this act : And all penalties and forfeitures incurred under this act, shall be sued for within eight days after the offence committed, before any two or more of His Majesty's justices of the peace, for the district of Quebec in their weekly sittings, one half thereof shall belong to the informer and the other half to the King ; and the said justices of the peace are hereby authorized and required to hear and determine the same on the oath of one credible witness, other than the informer, and to levy the same, with costs of suit, by warrant of distress and sale of the guns, boats, tackle and apparel, and furniture of such ship or other vessel or of the goods and chattels of other persons offending in the premises, under the hands and seals of such justices of the peace directed to any constable, rendering the surplus, if any, after deducting the costs and charges of distress and sale, to the master or person having command of such ship or other vessel, or to other persons to whom of right it may appertain, and the fines, forfeitures and penalties hereby granted and reserved to His Majesty, His Heirs and Successors, shall be for the public uses of this Province, and for the sup-

Carts transporting gunpowder to be provided with oil cloths.

Penalty.

Penalties how sued for.

Fines reserved to the crown.

port of the government thereof, and shall be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury, for the time being, as His Majesty, His Heirs and Successors shall direct.

14. ATTAINDER OF CONVICTS AT COURTS MARTIAL.

2 Vict. (2).
Cap. 7.

An Ordinance for the Attainder of persons against whom sentences or judgments of Courts Martial shall be given, under and by virtue of an Ordinance passed in the second year of Her Majesty's reign, intituled, *An Ordinance for the suppression of the rebellion which unhappily exists within this Province of Lower Canada, and for the protection of the persons and properties of Her Majesty's faithful subjects within the same*, and of another Ordinance passed in the said second year of Her Majesty's reign, intituled, *An Ordinance to declare and define the period when the rebellion, now unhappily existing in this Province, shall be taken and held to cease, and for other purposes*.

Preamble.

But see Tables.

WHEREAS His Excellency Sir John Colborne, the administrator of the government of this Province, did lawfully and by virtue of the authority in him reposed, by proclamation under his hand and seal at arms, bearing date at the government house, in the city of Montreal, the fourth day of the present month of November, declare martial law to be in force in the district of Montreal, in the said Province : And whereas, in and by an ordinance of the administrator of the government of the said Province, authorized to execute the commission of Governor thereof, by and with the advice and consent of the special council for the affairs of the said Province, passed in the second year of the reign of our Lady the Queen, intituled, *An ordinance for the suppression of the rebellion which unhappily exists within this Province of Lower Canada, and for the protection of the persons and properties of Her Majesty's faithful subjects within the same*, it is enacted, that it shall and may be lawful for the Governor, or person administering the government of the said Province, to arrest and detain in custody all persons, before that time or then engaged in the said rebellion, or suspected thereof, and to cause all persons so arrested and detained in custody, to be brought to trial in a summary manner, by courts martial, to be assembled under such authority, and be constituted in such manner, and of such description of persons, as the said Governor, or person administering the government of the said Province, shall from time to time direct, for all offences committed since the first day of this present month of November, or thereafter to be committed, in furtherance of the said rebellion, whether such persons shall have been taken in open arms against Her Majesty, or shall have been otherwise concerned in the said rebellion, or in aiding, or in any manner assisting the same, and to execute the sentence of all such courts martial, whether of death or otherwise, and to do all other acts necessary for such several purposes : And whereas it is expedient and necessary to ascertain and declare what shall be the consequence in law of the sentences and judgments of any

court or courts martial, to be given or passed in the behalf aforesaid :—Be it therefore ordained and enacted, &c., that all and every the sentences and judgments whereby the pain of death shall be adjudged, made, given and passed by any court martial or courts martial, to be appointed and constituted by the Governor or person administering the government of the said Province, under and by virtue of the said ordinance, and of the ordinance of the administrator of the government of the said Province, authorized to execute the commission of Governor thereof, with the advice and consent of the special council for the affairs thereof, passed in the second year of the reign of our said Lady the Queen, intituled, *An ordinance to declare and define the period when the rebellion now unhappily existing in this Province, shall be taken and held to cease, and for other purposes*, upon or against any person or persons whomsoever, by virtue of the said ordinances, shall have the effect of an attainder or attainders of the person or persons, upon and against whom such sentences or judgments shall be made, given and passed, to all intents and purposes whatsoever, in the law; and that the lands, tenements, hereditaments, credits, rights, goods, chattels, and all other things, personal and real, of all and every such person or persons, so sentenced or adjudged, shall be and remain forfeited to the Queen's Majesty, Her Heirs and Successors, for ever; without prejudice however to the rights of the *bond fide* creditors of such persons, so sentenced or adjudged to suffer the said pain of death, for all dues, charges and incumbrances existing prior to the commission of the offence for which such sentence or indictment* shall have been so made, given or passed.

Sentence of death passed by a court martial against persons concerned in rebellion to have the effect of attainder.

Rights of *bond fide* creditors protected.

* Sic.

II. And be it further ordained and enacted, &c., that it shall be the duty of all and every the judge advocate, or judge advocates, who shall be appointed to act as such, at and during the said court or courts martial, or any of them, and he or they are hereby required to transmit, to the Prothonotary of Her Majesty's court of King's bench, for the said district of Montreal, forthwith, after the giving and passing of any sentences or judgments in the behalf aforesaid, true and correct copies of all and every such sentences or judgments, certified under the hand and seal of the president of any such court or courts martial, and by the signature of any such judge advocate or judge advocates; and the prothonotary of the said court is hereby required to affile of record, in the said court of King's bench, all and every such sentence and sentences, judgment and judgments, and duly to enroll the same.

Judge advocate to transmit to prothonotary of K. B., Montreal, a certified copy of the judgment of the court martial.

III. And it is hereby further ordained and enacted, &c., that office copies of any such sentences or judgments, so delivered to the said prothonotary and affiled of record, certified by the said prothonotary, shall, in all Her Majesty's courts of judicature, and for all legal purposes whatsoever, be good and sufficient evidence of the contents of such sentences or judgments.

Office copies of sentences to be evidence.

IV. And to the end that all creditors and claimants upon the property of such person or persons so sentenced or adjudged to suffer the pain of death, may have an opportunity of establishing such claims, charges and incumbrances as may be respectively due to each, and be paid the same out of the proceeds of such property :—Be it therefore further ordained and enacted, &c., that within fifteen days after the affiling of such judgments or sentences of such courts martial with the prothonotary of the said court of King's bench, it shall and may be lawful for and on behalf of Her said

Notice to be given of sale of property belonging to persons sentenced to death, for information of those having claims thereon. See Tables.

Majesty to sue out writs, in virtue of such sentences or judgments, directed to the sheriff of the said district, commanding him to seize and sell the moveable or immoveable property of such persons, so sentenced or adjudged to suffer the pain of death, after such advertisements, and in the same mode and manner as may now, by law, be used, in respect to executions or judgments for debt, rendered in the said court of King's bench, and to make return of his doings and levyings on such writs, to the said court, as he is now, by law, held and bound to do on writs of execution; and all persons having claims *à fin de distraire*, or *à fin de charge*, or for dower, upon such immoveable property, shall be held, as is now practised, to make and file oppositions in support of the same, with the said sheriff, accompanied by affidavits establishing the claim, fifteen days, at least, before the day fixed for the sale of such immoveable property; and all persons having claims upon the monies levied and returned by the said sheriff before the said court, shall be held to make and file their claim on the day after such return shall be made by the said sheriff; and all persons failing to make such opposition within the delays herein prescribed for the same, respectively, shall be wholly and for ever precluded from so doing, and from all claims which, under such oppositions, might have been established.

Titles to purchasers.

V. And be it further ordained and enacted, &c., that all purchasers at such sheriff's sales, under such writs as aforesaid, shall have a valid, absolute, and indefeasible title to such property so by them purchased, to them, their heirs and assigns for ever.

15. HOUSES OF CORRECTION.

57 Geo. III.
Cap. 10.

An Act to provide temporary Houses of Correction in the several Districts in this Province.

Preamble.

Governor empowered until houses of correction are erected, to advance certain sums of money for temporary houses of correction in this Province.

See Tables.

WHEREAS for confinement and employment of all offenders, and persons liable to be sent to a house of correction, it is necessary that temporary houses of correction shall be provided in the several districts of this Province, until permanent houses of correction shall be erected therein:—Be it therefore enacted, &c., that until houses of correction shall be erected in the said several districts respectively, it shall and may be lawful to and for the Governor, Lieutenant-Governor, or person administering the government of this Province, for the time being, out of any unappropriated monies in the hands of the receiver general of this Province, which now are or shall be hereafter in the hands of the receiver general of this Province, to advance to the committees to be appointed under and by virtue of this act, to superintend the houses of correction in the said several districts respectively, a sum not exceeding two hundred pounds, current money of this Province, for the district of Quebec,—a sum not exceeding two hundred pounds, like current money, for the district of Montreal,—and a sum not exceeding one hundred pounds, like money, for the district of Three-Rivers,—for the purposes of enabling the said committees, or either of them, in each of the said several districts respectively, to hire, or otherwise provide a building, fit and proper to serve for a temporary house of correction, and also, such accommodations for the performance of labour, as may be requisite, and also to make a stock of materials for the use and employment of the persons who shall, or may hereafter be confined in the said houses of correction, in each of the said several dis-

tricts respectively, as well for the purpose of allowing reasonable salaries to the superintendent and keepers thereof respectively, in each of the said districts respectively: and that all and every idle and disorderly person, and vagabonds, or rogues and incorrigible rogues, who may, in pursuance of the criminal statutes or criminal laws of this Province, or any or either of them, be liable to be committed to a house of correction, shall be liable to be committed to the said temporary houses of correction, in the said several districts respectively, where he, she, or they shall be detained as lawfully and effectually, as if the same were such house of correction, as by the said criminal laws or criminal statutes, or either of them, is intended: Provided always, that it shall and may be lawful for the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being, to appropriate for the purposes of a house of correction, such part or parts of the new common gaols in the cities of Quebec and Montreal, as may be vacant, and which might be conveniently appropriated to that purpose, upon the report of the members of the committees who shall be appointed to superintend houses of correction.

Certain parts of the present gaols may be used as houses of correction.

III. And be it further enacted, &c., that it shall and may be lawful to and for the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being, to nominate and appoint in each of the said districts respectively, three persons, being justices of the peace for such districts, as and for a committee to superintend the house of correction hereby constituted in such district, and from time to time to remove all or any of the persons composing such committee, and to appoint others in their stead, or in the stead of such as shall die or resign; and the said committees shall make provision for stock and materials for the use and employment of the person or persons confined in the said houses of correction in the said districts respectively, and shall also make orders for the regulation of the said houses of correction, in the said districts, respectively, and of the respective masters of such houses of correction, and of the person or persons therein confined and to be confined, in all such cases as are not by law particularly provided for; which orders of regulation being approved, confirmed and allowed, by the justices of the court of King's bench, in each of the said districts respectively, at any criminal term of such courts respectively, shall be carried into execution; and the said committee shall in like manner, from time to time, as often as they shall think necessary, make any other orders of regulation, as well for the repeal of such orders before made, as by way of addition thereto, which, before they are carried into execution, shall also be approved, confirmed and allowed by the said justices in manner aforesaid, in each of the said districts, respectively: Provided always, that no regulation made under the present act, shall extend to authorize any person to whip, or cause to be whipped, any of the persons confined in the houses of correction.

Governor may appoint three persons in each district respectively, to be a committee for the superintending the said houses of correction.

No regulations to authorise the whipping.

IV. And be it further enacted, &c., that in all cases where any person or persons shall, from and after the passing of this act, be convicted of any crime for which he, she, or they shall be liable, and ought, by the criminal statutes or criminal laws of this Province, or any or either of them, to be burned in the hand, it shall and may be lawful to and for the judge, or judges, justice or justices, before whom such offender or offenders shall be tried and convicted, at his or their discretion, in the place of such burning in the hand, to award and give judgment that such offender or offenders shall be committed to the house of correction, constituted and provided by

Persons against whom judgments shall be given to be burned in the hand, may be sent to the house of correction.

But see 4 & 5 V. c. 24. s. 19, abolishing benefit of clergy.

this act, within the district where such conviction shall be had, there to remain and be kept without bail or mainprize, for such time or times as such judge or judges, justice or justices, shall there adjudge and award, not less than six months, and not exceeding two years, to be accounted from the time of such conviction, and entry thereof shall be made of record pursuant to such judgment and award; and such offender or offenders, so adjudged and awarded to remain and be kept in such house of correction, shall be there set at work and kept at hard labour, for and during such time as shall be so adjudged and awarded.

Persons convicted of grand or petty larceny, &c., may be sent to the house of correction.

Repealed by 4 & 5 V. c. 24. s. 70 as to offences subsequent to that act. And as to transportation, see 6 V. c. 5. s. 4.

V. And be it further enacted, &c., that from and after the passing of this act, in all cases where any person shall be lawfully convicted of grand or petty larceny, or of any crime for which he or she shall be liable by the criminal statutes or criminal laws of this Province, or any or either of them to transportation, it shall be lawful for the court in which any such person shall be so convicted, or any court held for the same district, and with like authority, if such court shall think fit, in the place of such punishment by transportation, to order and adjudge that such person shall be sent to the house of correction, hereby constituted and provided in such district, there to be kept to hard labour for such term or number of years as such court shall appoint; Provided that the same shall in no case be less than three months, or more than two years; and such person so ordered and adjudged to be kept in such house of correction, shall be there set at work, and kept at hard labour for and during such time as shall be so ordered and adjudged.

Persons convicted of robbery, &c., may be sent to the house of correction.

But see Tables: especially as to offences subsequent to 4 & 5 V. c. 24, &c., which do not extend to forgery.

VI. And be it further enacted, &c., that from and after the passing of this act, in all cases where any person shall be lawfully convicted of any robbery, or other felony for which he or she shall by law be liable to suffer death without the benefit of clergy, and His Majesty shall be graciously pleased to extend the royal mercy to any such offender, it shall and may be lawful to and for His Excellency the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being, by warrant under his hand and seal at arms, to notify such intention of mercy to the judge or judges, justice or justices, before whom such person shall be convicted or condemned, and thereby to command such judge or judges, justice or justices, to commit such person to the house of correction, hereby constituted and provided in the district wherein such person shall be so as aforesaid convicted, there to be kept at hard labour for such time, or number of years, as such warrant shall specify; and every such judge or judges, justice or justices, upon the receipt of such warrant, shall, by warrant under his or their hands or seals commit such person to such house of correction, as aforesaid, there to be kept at hard labour for the time specified in such warrant of the Governor, Lieutenant-Governor, or person administering the Government of this Province for the time being; which person so committed, shall be set at work, and kept at hard labour for and during such time as shall be specified in such last mentioned warrant; and from and after the expiration of such time so specified in such last mentioned warrant, such person shall be discharged, and be entitled to every of the benefits and advantages of a pardon, upon condition of being kept to hard labour in such house of correction, as fully to all intents and purposes, and in like manner as if such conditional pardon had been granted and made under the great seal of this Province; any law, statute, usage, or custom to the contrary notwithstanding.

VII. And be it further enacted, &c., that every person convicted of grand or petty larceny, or robbery, or of any crime for which he, she, or they shall be liable by the criminal statutes or criminal laws of this Province, to be burned in the hand, or to transportation, or to suffer death, without benefit of clergy, and who, by virtue of this act, shall be sent to any house of correction, hereby constituted and provided, shall be kept in such house of correction, separate and apart from all other persons, who by virtue of this act shall be committed to such house of correction; and that nothing in this act contained, shall be held or construed to give power or authority to any person or persons to commit to the houses of correction hereby constituted, or to any or either of them, any person or persons other than the persons hereinbefore particularly mentioned and designated.

Persons convicted of larceny, &c., committed to the house of correction to be kept separate and apart from all others.

An Act to amend an Act passed in the fifty-seventh year of His Majesty's Reign, intituled, *An Act to provide temporary Houses of Correction in the several Districts of this Province, and for other purposes.* 58 Geo. III. Cap. 14.

WHEREAS an act was passed in the fifty-seventh year of His Majesty's reign, intituled, *An act to provide temporary houses of correction in the several districts of this Province*, whereby it is provided, that it shall and may be lawful for the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being, to advance certain sums of money therein mentioned to the committees to be appointed under the said act; and whereas it is expedient and necessary that the payment of the said sums of money should be made annually to the committees appointed in virtue of the said act, for the purposes contained in the said act:—Be it therefore enacted, &c., that it shall and may be lawful to and for the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being, out of any unappropriated monies which now are, or shall be hereafter in the hands of the receiver general of this Province, to advance annually, during the continuance of this act, to the committees which may have been, or shall be appointed under and by virtue of the aforesaid act of the fifty-seventh year of His Majesty's reign, to superintend the houses of correction in the several districts respectively, that is to say, a sum not exceeding two hundred pounds, current money of this Province, for the district of Quebec,—a sum not exceeding two hundred pounds, current money of this Province, for the district of Montreal,—and a sum not exceeding one hundred pounds, like currency, for the district of Three-Rivers,—for the purpose of enabling the said committees, or either of them, in their respective districts, to hire, or otherwise provide a building fit and proper to serve for a temporary house of correction,—and also such accommodation for the performance of labour as may be requisite,—and also to provide a stock of materials for the employment of the persons who now are, or shall hereafter be confined in the said houses of correction, in the aforesaid districts, respectively, as well as for the purpose of allowing reasonable salaries to the superintendent and keepers thereof, in each of the said districts, respectively.

£200 granted yearly for the district of Quebec, £200 for Montreal, and £100 for Three-Rivers.

These grants are now permanent. See Tables, 57 Geo. 3. c. 10.

II. And whereas it has been ascertained, that in consequence of the increased population of the district of Montreal, and the great number of prisoners which it has frequently been found necessary to commit to the house of correction for the said district, the aforesaid sum of two hundred

A further sum may be granted, but not to exceed £100 per annum

more than granted by this act for the district of Montreal.

See Note on Sect. 1.

Proviso.

Application of the money to be accounted for to His Majesty.

pounds *per annum*, is insufficient for the support and maintenance of the said house of correction :—Be it therefore enacted, &c., that from and after the passing of this act, it shall and may be lawful to and for the Governor, Lieutenant-Governor, or the person administering the government of this Province for the time being, to advance out of any of the before mentioned funds, such further sum for the purposes aforesaid, as on a representation from the committees for superintending the said house of correction may be found necessary, and shall be approved of by the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being : Provided always, that the sum hereby authorized to be so advanced for the purposes aforesaid, over and above the aforesaid annual sum of two hundred pounds, shall not in any one year exceed the sum of one hundred pounds, current money of this Province.

III. And be it further enacted, &c., that the due application of the said monies, agreeably to the directions of this act, shall be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors, shall direct.

3 Geo. IV.
Cap. 32.

An Act to extend certain provisions contained in an Act passed in the fifty-seventh year of the reign of His late Majesty, intituled, *An Act to provide temporary Houses of Correction in the several Districts of this Province.*

Preamble.

Governor may appropriate as a house of correction part of the gaol at Three-Rivers.

WHEREAS by an act passed in the fifty-seventh year of the reign of His late Majesty, King George the Third, of glorious memory, intituled, *An act to provide temporary houses of correction in the several districts of this Province*, it is provided, that it shall and may be lawful for the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being, to appropriate for the purposes of a house of correction, such part or parts of the new common gaols in the cities of Quebec and Montreal, as may be vacant, and which might be conveniently appropriated to that purpose ; and whereas it is expedient to extend the above recited provision of the aforesaid act, to the new common gaol in the town of Three-Rivers :—Be it therefore enacted, &c., that it shall and may be lawful for the Governor, Lieutenant-Governor, or the person administering the government of this Province for the time being, to appropriate for the purposes of a house of correction, such part or parts of the new gaol in the town of Three-Rivers, as may be vacant, and as may be conveniently appropriated to that purpose, upon the report of the members of the committee, who are or shall be appointed to superintend the house of correction in the town of Three-Rivers.

9 Geo. IV.
Cap. 4.

An Act to revive and further to continue, for a limited time, and to amend a certain Act passed in the fifth year of His Majesty's reign, relating to Houses of Correction in the several Districts of this Province.

Preamble.

WHEREAS it is expedient to revive and further to continue for a limited time, and to amend a certain act passed in the fifth year of His Majesty's reign, intituled, *An act still further to continue for a*

limited time certain acts therein mentioned relating to houses of correction in the several districts of this Province, the duration of which was limited to the first day of May, one thousand eight hundred and twenty-seven :—Be it therefore enacted, &c., that the said act, &c. (5 Geo. 4. c. 10. *Mere continuing clause. Effete*). Act 5. Geo. 4. cap. 10, continued.

II. And be it further enacted, &c., that from and after the passing of this act, and during the continuation of the same, the said houses of correction shall be, respectively, under the sole care, superintendence and management of the sheriff of the district in which such houses of correction are respectively situated, so long as the said houses of correction shall be within the same buildings in which the gaols at present are. Houses of correction to be under the management of the sheriff.

16. DEATH, SENTENCE OF.

An Act for enabling Courts to abstain from pronouncing Sentence of Death in certain Capital Felonies. 6 Geo. 1V. Cap. 5.

WHEREAS it is expedient that in all cases of felony, not within the benefit of clergy, except murder, the court before which the offender or offenders shall be convicted, shall be authorized to abstain from pronouncing judgment of death, whenever such court shall be of opinion that, under the particular circumstances of any case, the offender or offenders is or are a fit and proper subject, or fit and proper subjects, to be recommended for the royal mercy :—Be it therefore enacted, &c., that from and after the passing of this act, whenever any persons shall be convicted of any felony, except murder, and shall by law be excluded the benefit of clergy in respect thereof, and the court before which such offender shall be convicted shall be of opinion that, under the particular circumstances of the case, such offender is a fit and proper subject to be recommended for the royal mercy, it shall and may be lawful for such court, if it shall think fit so to do, to direct the proper officer then being present in court, to require and ask, whereupon such officer shall require and ask, if such offender hath or knoweth any thing to say, why judgment of death should not be recorded against such offender ; and in case such offender shall not allege any matter or thing sufficient in law to arrest or bar such judgment, the court shall and may, and is hereby authorized to abstain from pronouncing judgment of death upon such offender, and instead of pronouncing such judgment to order the same to be entered of record ; and thereupon such proper officer as aforesaid shall and may be and he is hereby authorized to enter judgment of death on record against such offender in the usual and accustomed form, and in such and the same manner as is now used, and as if judgment of death had actually been pronounced in open court against such offender, by the court before which such offender shall have been convicted. Preamble.
But see Tables.
The court may in certain cases abstain from pronouncing judgment of death upon offenders, &c.
And may order the said judgment to be recorded, &c.

II. And be it further enacted, &c., that a record of every such judgment so entered as aforesaid, shall have the like effect, to all intents and purposes, and be followed by all the same consequences as if such judgment had actually been pronounced in open court, and the offender had been reprieved by the court. Effect of the record of such judgment.

17. EXECUTION FOR MURDER, &c.

41 Geo. III. **An Act for discontinuing the Judgment which has been required by law to be given against Women convicted of certain Crimes, and substituting another Judgment in lieu thereof.**
Cap. 9.

Preamble.

But see Tables.

Women convicted of high treason, &c., to be hanged.

See Tables.

Women convicted of *petit* treason, &c., to be liable to the same punishment as persons convicted of wilful murder, as specified in act 25 Geo. 2. cap. 37.

But see Tables.

Women convicted of high treason, &c., to be liable to the like forfeitures as heretofore.

2 Vict. (3)
Cap. 9.

WHEREAS it is expedient, that the judgment which has been required by law, to be given and awarded against any woman or women, in the cases of high treason or of *petit* treason, should be no longer continued :—Be it therefore enacted, &c., that from and after the passing of this act, the judgment to be given and awarded against any woman or women, convicted of the crime of high treason or of the crime of *petit* treason, or of abetting, procuring or counselling any *petit* treason, shall not be, that such woman or women shall severally be drawn to the place of execution, and be there burned to death, but that such woman or women, being so convicted, as aforesaid, shall be severally drawn to the place of execution, and be there hanged by the neck, until she or they be severally dead; any law or usage to the contrary thereof, in any wise, notwithstanding.

II. And be it further enacted, &c., that if any woman or women shall be convicted of the crime of *petit* treason, or of abetting, procuring or counselling any *petit* treason, then and in every such case, such woman or women shall be subject and liable to such further pains and penalties, as are particularly specified and declared, with respect to persons convicted of wilful murder, in an act passed in the twenty-fifth year of the reign of King George the Second, intituled, *An act for the better preventing the horrid crime of murder*, and the court before whom any such woman or women shall be convicted, shall pass sentence at such time and give such orders, with respect to the time of execution, the disposal of the convict's body after execution, and all such other matters or things as are directed to be given by the said act, with respect to persons convicted of wilful murder.

III. And be it further enacted, &c., that whenever any woman or women, shall be convicted of the crime of high treason or of the crime of *petit* treason, or of abetting, procuring or counselling any *petit* treason, and judgment shall be given thereon, according to the directions of this act, then and in every such case, such woman or women, being so attainted of such crimes respectively, shall be subject and liable to such and the like forfeitures and corruption of blood, as they severally would have been, in case they had been severally attainted of the like crimes, before the passing of this act.

An Ordinance to repeal so much of an Act of the Parliament of Great Britain, of the twenty-fifth year of the Reign of His late Majesty, George the Second, as directs the Period of the Execution of persons convicted of the crime of Murder, and for other purposes.

Preamble.

But see Tables.

Sentence of death may be pronounced as in other cases.

WHEREAS by an act of the parliament of Great Britain, passed in the twenty-fifth year of the reign of His late Majesty, King George the Second, intituled, *An act for the better preventing the horrid crime of murder*, it was amongst other things enacted, that all persons, &c. (*Part of the said act inconsistent with this act, recited and repealed*).

II. And be it further ordained and enacted, &c., that from and after the passing of this ordinance, sentence of death may be pronounced after conviction for murder, in the same manner, and the judge shall have the same power, in all respects, as after conviction for other capital offences.

CLASS D.

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1. JUDICATURE, COURTS, &c.

An Ordinance to regulate the proceedings in the Courts of Civil Judicature, and to establish *Trials* by *Juries* in actions of a Commercial nature and Personal Wrongs to be compensated in damages. 25 Geo. III. Cap. 2.

WHEREAS it is necessary for the ease and conveniency of His Majesty's subjects who may have actions to prosecute in the courts of Preamble.

Manner of proceeding in actions above the value of £10 sterling.

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Attachment against the body, where a debtor is about to leave the Province.

But see Tables.

civil judicature established in this Province, that the mode of administering justice in the said courts should be clearly ascertained and rendered as plain as possible :—Be it therefore ordained and enacted by his honour the Lieutenant-Governor and Commander-in-chief of this Province, by and with the advice and consent of the legislative council thereof, and by the authority of the same, it is hereby ordained and enacted, that in all causes or matters of property exceeding the sum or value of ten pounds sterling, upon a declaration presented to any one of the judges of the court of common pleas, by any person, setting forth the grounds of his complaint against a defendant, and praying an order to compel him to appear and answer thereto, such judge shall be, and hereby is empowered and required, in his separate district, to grant such an order, whereby the plaintiff may have and obtain from the clerk of the court, a writ of summons, in the language of the defendant, to be issued in His Majesty's name and tested by the name of such judge, to be directed to and executed by the sheriff of the district where such court shall have jurisdiction and in which the defendant may be or doth reside, commanding such defendant to be and appear in such court, to answer to the plaintiff, on the day appointed by such judge in the order on the declaration, regard being had to the season of the year as well as to the distance of the defendant's abode or place of service, from the place where the court may sit.

II. Provided always, that a copy of the writ of summons and the declaration shall be served on the defendant personally, or left at his house with some grown person there, belonging to the family, and in so doing the service shall be deemed sufficient : Provided nevertheless, that if the defendant be absent in the upper country or lower parts of the Province, that is to say, when in or upon any place beyond the *Long Sault* on the Ottawa river, or beyond Oswegatché, in the upper parts of the Province, or in or upon any place below Cape Chat on the south side, and the Seven Islands on the north side, of the river St. Lawrence, and where such defendant hath not been personally served with such summons and declaration as abovesaid, that no execution shall issue, unless the plaintiff shall give good and sufficient security, to be approved by the court, to refund to the defendant or his legal representative, as much as the defendant, appearing by himself or his legal attorney within a year and a day, may be able to set aside and reverse of the said judgment, by such reconsideration of the said judgment in the court where given, as may be prescribed in the conditions expressed in the security to be given as abovesaid for rehearing of the merits of said cause.

III. That the said declaration so to be filed shall not be altered or amended after being filed as abovesaid, unless upon rule of the court and upon payment of costs.

IV. That in all and every case where one or more judges of any court of common pleas is or may be satisfied, by the affidavit of the plaintiff or his book-keeper or clerk or legal attorney, that the defendant is personally indebted to the plaintiff in a sum exceeding ten pounds sterling, and may also be satisfied by the oath of the plaintiff or some other person, that the defendant is immediately about to leave the Province, and whereby the plaintiff might be deprived of his remedy against such defendant, it shall and may be lawful for one or more judge or judges of any court of common pleas, to grant a *capias* or attachment against the body of such defendant, to be directed to the sheriff in manner as aforesaid, to hold such defendant

to bail, for his appearance at the return of such writ ; and in default thereof, to commit him to prison, there to remain until special bail may be given by such defendant, or until two days after execution may be obtained by the plaintiff, if judgment be in his favour.

V. Provided always, that if any defendant so bound in recognizance by special bail, shall or do surrender himself in open court, pending the action, or at any time within one month after judgment obtained,—or do surrender himself unto the sheriff of the district where such court may have jurisdiction, at any time within fifteen days after the day on which the plaintiff might legally have and obtain execution, by *capias ad satisfaciendum* upon judgment obtained, that then and in such case such surrender of the defendant shall be held, taken, and considered as a discharge of the persons bound for such defendant on special bail.

Proviso: what shall operate as a discharge of the special bail.

VI. If on the day of the return of the writ of summons the defendant does not appear in person, or by attorney (proof of such service being produced or made in court) the plaintiff shall obtain a default against the defendant ; and if, on calling over the action on the next weekly court-day, the defendant should still neglect to appear, without any good reason for such his neglect, the court, after hearing and receiving sufficient proof of the plaintiff's demand, shall cause their final judgment to be entered against the defendant, and shall award such costs thereupon as they shall think reasonable, and issue such execution as the law, according to the nature of the case, may direct.

If defendant does not appear, judgment to be entered.

But see Tables.

VII. Provided always, that every proof that may be offered by the plaintiff, in support of his action and demand, shall be filed in court, and remain of record in the same manner as if the defendant had appeared and defended the action.

Proviso.

VIII. Provided also that the defendant, upon his appearance at the return day of the writ, or in case of default, upon his appearance at the next weekly court after such return, and after payment of costs of such default as abovesaid, shall then, or on such other day as he may obtain from the court, make his answer to the declaration, either in writing or verbally, as he thinks fit ; and if the answer be verbal, the clerk of the court shall take down the substance thereof in writing, and preserve the same among the records of the court and in the said action ; and if the plaintiff doth not appear at the return day of such writ, or appearing doth not prosecute his action, the same shall be dismissed with costs to the defendant.

If defendant appears, he is to answer the declaration.

But see Tables.

IX. That all and every person having suits at law and actions in any of the said courts of common pleas, grounded on debts, promises, contracts and agreements of a mercantile nature only, between merchant and merchant, and trader and trader, so reputed and understood, according to law, and also of personal wrongs, proper to be compensated in damages, may, at the option and choice of either party, have and obtain the trial and verdict of a jury, as well for the assessment of damages on personal wrongs committed, as the determination of matters of fact in any such cause : Provided always, that the agreement of nine of the twelve jurors, who shall compose such jury, shall be sufficient and effectual to return a verdict, and that the same so made and returned shall be held as legal and effectual, to every intent and purpose, inasmuch as if the whole twelve jurors had agreed therein ; and the clerk of the court shall set down the names of

Trials by juries in certain cases at the option of the parties.

See Tables.

Proviso.

the jurors, on the register of the court, in every cause where verdicts may be returned as abovesaid : Provided also, that in all such causes and actions that may be between His Majesty's natural born subjects of Great Britain, Ireland, or the plantations and Provinces in America, the juries in such causes, shall be composed of such natural born subjects as abovesaid ; and in all causes and actions between His Majesty's Canadian or new subjects, the juries shall be composed of such Canadian or new subjects ; and in all causes and actions between natural born subjects and the Canadian or new subjects, the jury shall be composed of an equal number of each, if such be required by either of the parties, in any of the abovementioned instances.

English rules
of evidence in
certain cases.
See Tables.

Where neither
party is desi-
rous of the
trial by jury,
proceedings as
formerly.

X. In proof of all facts concerning commercial matters, recourse shall be had in all the courts of civil jurisdiction in this Province, to the rules of evidence laid down by the laws of England.

XI. Provided always, and it is ordained and enacted, that in all causes before the said courts of common pleas, where the parties, plaintiff nor defendant are neither of them desirous of a trial by the verdict of a jury, of and respecting matters legally within the cognizance of such jury, but that such trial should be by the deposition of witnesses, and by proofs, as at present used in His Majesty's said courts of common pleas, the court shall, after issue joined on the merits of the cause, in the manner as hereafter expressed, appoint a day for hearing the evidence of the parties, plaintiff and defendant, and cause the same to be taken down in writing by the clerk of the court, in open court, and signed and sworn to by each respective witness, save and except as hereafter provided for witnesses absent by reason of sickness or of departing the Province.

Provision for
examining
witnesses, in
case of sick-
ness or when
about to depart
the Province.

XII. Provided also, that in case of sickness and where the witnesses cannot attend the court, to be ascertained by affidavit, it may be lawful for the court, in such cases, *and of evident necessity*, after issue joined as abovesaid, to allow and permit that any one judge, in the presence of the parties, plaintiff and defendant, or their attornies, or in their or either of their absence, after due notice signified, may take the deposition of such witness, in writing, to be signed and sworn to, and certify and record the same in the said court, and there to be of legal effect ; and moreover, that such deposition so taken, may be offered and read to the jury, as legal evidence, if such cause be to be tried by jury : and also in causes instituted in the said court, where any witness may be about to depart the Province, and by which means either party might be deprived of his testimony, to be ascertained by affidavit, it shall and may be lawful for any judge of the said courts to take the deposition of such witness in presence of the parties or their attornies, in the manner as above expressed, and the same shall be of legal effect, in every cause, in the manner as abovesaid.

Limitation of
pleadings.

XIII. And it is further ordained and enacted, that every issue in law or fact to be formed in any cause in either of the said courts of common pleas, between the parties, plaintiff and defendant, shall be made and completed by the declaration, answer and replication, or by the plea, answer and replication in cases of abatement and bar, of the said parties, plaintiff and defendant ; and that no other or further pleadings or writings by way of plea upon such issue or matter in dispute, whether of law or fact, shall be received or admitted by the said courts of common pleas, as part of and to be put upon record, in any cause there instituted, and to be heard and adjudged upon ; any thing to the contrary notwithstanding.

XIV. That every writ and process which ought to be served and executed by the sheriff, where it shall happen that the sheriff may be personally interested and concerned, shall be served and executed by the coroner of the district, in which such writ, process or execution may issue. When the sheriff is concerned, the coroner to act.

OF JURORS.

XV. That all mercnants or traders of lawful age, and also all persons of lawful age, being house-holders, or occupying lodgings of the value of fifteen pounds *per annum* rent, shall be held and considered qualified as jurors, and to serve on petit juries. Their qualification. See Tables.

XVI. That the sheriff of each district shall make out lists of all persons so qualified as abovesaid, who may reside in the cities of Quebec or Montreal, and within the vicinage or *banlieu* thereof, and return the same into the respective courts of common pleas of the district in which such sheriff may officiate, and in which return shall be set down the christian and surname, and also the profession, trade or calling, and place of abode of such persons so returned. Sheriffs to make out lists of jurors.

XVII. That from the said general list, the clerk of each court shall make two separate lists or books, the one to contain the names of all merchants, persons concerned in trade, or qualified to serve on special juries, and the other list or book to contain the names of persons of different occupations, so returned on the said general list by the sheriff as aforesaid: That the said lists or books, when so made shall be examined by the judges and sheriff, and corrected if needful, and shall be of record and open in the clerks's office, to the inspection of all persons, without fee or reward. Two lists of juries to be made from the general list.

XVIII. That in all and every cause where a trial may be moved for, and directed to be taken by the verdict of a jury, it shall and may be lawful for the parties, plaintiff and defendant, or their attorneys, to strike a jury from the above lists or books so returned into court, and completed as abovesaid, in the same manner and under the same rules as special juries are struck in the courts of record in England, that is to say; from the first list or book so formed by the clerk and approved by the judges as abovesaid, in all causes of mercantile dispute or actions of damages, where the total amount, sum, dealing or matter of account, agreement or transaction between the parties, may exceed fifty pounds; and from the second list or jury book where the total sum as abovesaid, may not exceed the said sum of fifty pounds. Juries to be struck from the lists.

XIX. Provided always, that the said juries so to be struck from either of the said lists, shall be taken from the same in rotation and following each other, by commencing at that part of the list from whence the former or preceding jury was struck or taken: And also, that in all causes that may appear to the court before which they are to be tried, to be of intricacy, and that ought to be tried by a jury from the first list, although the sum or total amount may not exceed fifty pounds, the judges of such court may permit and order the jury to be struck from the first list; the party applying for such jury paying the difference of fees between jurors from the first and the second jury list or book. Juries to be taken in rotation.

XX. That all and every challenge or exception to the pannel, or any particular juror returned thereon, shall be taken, made and determined upon in open court and conformable to the laws of England: That jurors serving on special juries as abovesaid, and struck from the first list or jury book, Challenges or exceptions to be determined agreeably to

the laws of
England.

shall have and receive two shillings and six pence each, for every verdict to be made and delivered, and before returned into court : And jurors struck from the second list or jury book, one shilling each for every verdict in manner as aforesaid.

List of jurors
to be returned
by the sheriff,
yearly.

XXI. That lists of jurors in the manner prescribed by the preceding articles, shall be made by the sheriffs, returned into the several courts, and formed in the manner above mentioned, in the month of June in every year.

Penalty on
jurors not at-
tending.

XXII. That all persons being duly summoned to attend in any of His Majesty's courts of common pleas, to serve as jurors as abovesaid, and neglecting or refusing so to do, shall be liable to, and may be fined by the said courts respectively, in any sum not exceeding five pounds, and not less than ten shillings, to be levied by warrant of distress, on the goods and chattels of such person so refusing or neglecting to attend, and to be paid to His Majesty's receiver general for the public uses of the Province.

Persons ex-
empted from
serving as
jurors.

XXIII. That the members of His Majesty's council, the officers of His Majesty's courts, officers of the customs, naval officers, persons employed in the service of the post office, physicians and surgeons, and officers employed in military service, shall be exempted from serving on juries.

OF APPEALS.

Appeals from
definitive judg-
ments.

XXIV. The party meaning to appeal from any definitive sentence or judgment of any of the courts of common pleas, shall sue out a writ from the court of appeals, tested and signed by the Governor, Lieutenant-Governor, or chief justice, stating that the appellant complains of being aggrieved by the judgment, and therefore commanding the judges of the inferior court, or any two of them, to send up the original papers and proceedings, found in the records or registers of the court, concerning the same : Such writ, when presented to any of the judges of the court below, shall be allowed by him, if the appellant has given the requisite security, which security is hereby understood to be personal security, or bail by justification ; any law, usage or custom to the contrary notwithstanding : Provided nevertheless, that an appeal may be had and obtained, in manner abovesaid, from any interlocutory sentence or judgment which may carry execution, by ordering something to be done or executed that cannot be remedied by the final sentence or judgment, or whereby the right of the matter in contestation between the parties may be in part decided, or whereby final hearing and judgment may be unnecessarily delayed ; provided always, that such appeal shall not be granted and allowed, except upon motion made in the court of appeals for that purpose, and a rule served upon the other party or his attorney, to shew cause why a writ of appeal from such interlocutory sentence or judgment should not be granted : And it is hereby ordained that a rule so served shall have the effect to stay execution upon such interlocutory sentence or judgment, till the determination of the motion for such appeal ; and if the writ of appeal shall be awarded thereupon, and allowed by the judges in manner as aforesaid, the clerk of the court shall proceed to comply with the order of the writ, and the judges or any two of them, shall make their return as therein commanded.

*But see Tables,
as to this and
five following
sections.*

Appeals from
interlocutory
judgments.

Appellant to
file his reasons
of appeal in 8
days.

XXV. If the appellant does not, within eight days after the return of the said writ and transmission of the proceedings, file his reasons of appeal, the appellee shall obtain a rule or order, that unless the appellant's reasons

of appeal, are filed in four days, the appeal will be dismissed : And if the said reasons of appeal are not filed within four days after service of the said rule on the appellant or his agent, the appeal shall be accordingly dismissed with costs.

XXVI. Within eight days after the reasons of appeal are filed, the appellee shall file his answers thereto ; or if he neglects so to do, the appellant shall obtain a rule or order, that unless the appellee file his answers within four days, he will be precluded from filing them after that period ; and if his answers are not filed within four days after service of such rule on the appellee or his agent, he shall accordingly be precluded from filing them, and the court will proceed to hear the cause on the part of the appellant, and proceed to judgment therein without the intervention of the appellee.

Appellee to file his answers in 8 days.

XXVII. That the said court of appeals, nevertheless, shall and may, upon application made, and good cause shewn by either of the parties, (notice being given to the other) prolong the time allowed for filing either of the reasons of appeal or answers thereto ; and in case the court shall not be sitting at the time when such reasons or answers ought regularly to be filed, the party neglecting shall apply to the court at the next sitting thereof, and shew his reasons for such neglect ; and if the court finds them insufficient, it will, as the case may be, either dismiss the appeal, or proceed to hear it without the intervention of the appellee as above directed.

The court on good cause shewn may prolong the time above allowed.

XXVIII. When the reasons of appeal, and the answers thereto, are filed, the court shall, on the application of either of the parties, fix on such convenient day for the hearing of the cause, as to it may seem proper.

Day to be fixed for hearing the cause.

XXIX. If the writ of appeal is not allowed by one of the judges of the court below, and a copy thereof served on the appellee or his agent, within fifteen days after any judgment given in the court of common pleas, execution shall issue : Provided always, that in cases of appeal from judgments in His Majesty's court of common pleas in the district of Montreal, execution shall be stayed for the space of twenty days, where the party meaning to appeal shall lodge good and sufficient security in the said court within fifteen days from the date of such judgment, to prosecute his said writ of appeal with effect, and that such security shall be taken as in case of an actual writ of appeal issued and admitted : And no appeal shall be allowed or received from the court of common pleas, after the expiration of one year from the date of the judgment of such court ; save and except such judgment, whereby the rights of infants, absentees, *femmes couvertes*, or persons *non compos mentis*, may be bound.

Execution to issue in 15 days if appeal is not allowed or security given.

Limitation of appeals.

OF EXECUTIONS.

XXX. The execution sued out from any of the courts of civil jurisdiction, shall be a writ issuing in the King's name, tested and signed, when issuing from the court of appeals, either by the Governor, Lieutenant-Governor, or chief justice, and when issuing from the courts of common pleas, by one of the judges of the court for the district in which it is given, directed to the sheriff of the district, setting forth the judgment of the court between the parties, and the kind of execution which the law, according as the case may be, shall direct ; whether the same be to take the body, or to levy a sum of money out of any one's goods and chattels, lands and tenements, or to do any special matter or thing whatever : the date of the judgment shall be indorsed on every writ of execution, and that indorsement signed by the judge.

Nature of executions.

But see Tables.

Personals to be
first disposed
of.

See Tables.

Manner of sel-
ling personals.

See Tables.

Manner of
selling real
property.

See Tables.

When two or
more execu-
tions issue on
judgments
given the same
day, how they
are to be
satisfied.

XXXI. In all cases where execution shall issue against real and personal estates, the sheriff shall first dispose of the personal property, and if the proceeds thereof fall short of the amount of the judgment, the real estate, or so much thereof as will produce the amount, shall be sold for that purpose.

XXXII. Where moveables shall be seized by the sheriff, under an execution, he shall cause the seizure to be published at the church door of the parish, immediately after divine service, on the first Sunday succeeding such seizure ; and at the same time cause to be proclaimed, the day and place, when and where he means to proceed to the sale thereof ; provided that the place of sale shall be in the same parish in which the seizure is made : And provided always, that the sheriff shall not sell any chattels, so to be seized and notified, until eight days after notification of sale as abovesaid ; and that at the request of the plaintiff, the sheriff may cause goods and merchandizes so seized as abovesaid, to be transported from the parish where seized to the city of Montreal or Québec, (being in the district where seized) and there to be sold after due notice as aforesaid ; and that execution so to be issued against chattels or personal estate, shall be made returnable at such day as the court from whence it may issue, shall judge reasonable ; and that the execution shall issue against chattels, or personal or real estate, in one and the same writ, but that such execution shall be first levied upon the chattels or personal estate, and be returnable as to such first levy, yet nevertheless, may have force and effect and be returnable also, at a more distant period, as to the second levy on real estate, for the full satisfaction of the execution aforesaid.

XXXIII. When lands and tenements shall be seized by the sheriff, under a writ of execution, he shall advertise the sale thereof, three several times in the Quebec Gazette, to be on some certain day after the expiration of four months from the date of the first advertisement, and proclaim the said sale at the church door of the parish in which the premises are situated, immediately after divine service, on the three Sundays next preceding the sale, and cause a copy of the said advertisement to be fixed on the door of the parish church ; and that lands *en roture* shall be sold at the door of the church of the parish where seized : And the sheriff is hereby further required to advertise, immediately after the seizure, that all and every person having any claim on said lands and tenements, by mortgage, or other right or incumbrance, do give notice thereof at his office, either before or after the sale, where the law makes a distinction, and to remove all doubts, the sale then by the sheriff, without any other formality, shall have the same force and effect as the *decret* had heretofore.

XXXIV. If two or more writs of execution shall be issued upon judgments given the same day, against the same defendant or defendants, and so marked on the writs, such executions shall have the same privilege, and be satisfied in the same proportion : Provided always, that if any oppositions or claims may be entered at the sheriff's office, either before the sale of moveables, or before or after the sale of immoveables, and where required by law, in the one or the other case abovementioned, or where the moveables seized may be claimed by any other person, as to him pertaining,—in all such cases, the sheriff shall return the same at the proper periods, into the court where such execution issued, that the said court may, on hearing such claims and oppositions, and the parties therein concerned, adjudge them according to law.

XXXV. On every execution the sheriff shall be allowed all his disbursements, and shall be authorized to charge over and above, at the rate of two and a half *per cent*, to be deducted out of the money he levies. Allowance to the sheriff.

PROCEEDINGS IN ACTIONS UNDER TEN POUNDS STERLING.

XXXVI. In matters either not exceeding or under ten pounds sterling, any person having a right of action against another, shall prepare or procure from the clerk of the court of common pleas, a declaration in the following form, viz. *(New form substituted by 7 Vict. cap. 16, s. 31.)* But see Tables. Very little of this section being in force.

This declaration shall be filed by the clerk, who shall make a copy thereof, and at the foot of such copy, write out a summons in the language of the defendant, in the following form, viz. *(New form substituted by 7 V. c. 16, s. 31.)*

This summons shall be signed by one of the judges of the court, and a copy thereof, and of the declaration, served on the defendant personally, or left at his dwelling-house, or ordinary place of residence, with some grown person there; and the person serving the same, shall inform the defendant, or such grown person, of the contents thereof. Service.

If, at the time mentioned in the summons, the defendant does not appear, (proof of the service thereof being produced in court) the judges, or any one of them, shall hear the cause on the part of the plaintiff, and make such order, decree or judgment, and award such reasonable costs of suit, as to him or them shall appear agreeable to equity and good conscience. Non-appearance.

But if the defendant does appear by himself or his agent, and the plaintiff or his agent does not appear, or appearing does not prosecute, or prosecuting fails in his action, the judge or judges shall dismiss the defendant, with costs. Appearance.

If the plaintiff makes good his charge against the defendant, the judge or judges shall give judgment accordingly, and award costs and execution; but the execution shall not issue until eight days after judgment given. Judgment.

The execution shall go against the moveables only of the defendant, which shall be seized by some person to be for that purpose appointed by the court, and sold by him, in the manner mentioned in the thirty-second article of this ordinance. Execution.

But the execution shall contain an exception, of the party's beasts of the plough, implements of husbandry, tools of his trade, and one bed and bedding, unless his other goods and chattels shall prove insufficient; in which case such beasts of the plough, implements of husbandry, and tools of his trade shall be sold, but not the bed and bedding. Exceptions.

The judge or judges may, if they think proper, order the debt to be levied by instalments, provided the time allowed shall not exceed the space of three months, from the day of issuing the execution. Debt to be levied by instalments.

XXXVII. In matters as well above, as of or under the value of ten pounds, sterling, if the defendant shall convey away or secrete his effects, or shall with violence, or by shutting up his house, store, or shop, oppose his effects being seized; in all such cases, on due proof thereof, an execution shall go against his person, to be taken and detained in prison until he satisfies the judgment; any law, usage or custom, to the contrary notwithstanding, If the defendant secretes his effects, or resists, execution against the body.

XXXVIII. For the satisfaction of all judgments given in commercial matters, between merchants or traders, as well as of all debts due to merchants or traders for goods, wares and merchandizes by them sold, executed against the body. In commercial matters, execution against the body.

tion shall issue, not only against the goods, chattels, lands and tenements of the defendant, but also, in case they shall not produce the amount of the plaintiff's demand, against his person; to be taken and conveyed into the prison of the district, and there detained until he pays the amount of the judgment, or otherwise settles with and satisfies the plaintiff; any law, usage or custom to the contrary notwithstanding: Provided, that if the defendant, after remaining one month in prison, shall make application to the court, and make an affidavit, that he is not worth ten pounds, the plaintiff shall pay to the defendant the sum of three shillings and six pence weekly, for his maintenance, as long as he shall be detained in prison at the suit of the plaintiff; and in times of scarcity, the said court of common pleas may, in its discretion, augment the said allowance, not exceeding the further sum of one shilling and six pence per week; such payment shall be made in advance, on Monday in every week; in failure of which the court, from whence the execution issued, shall order the defendant to be released; but the plaintiff shall not be obliged to make such payment, if he can prove, to the satisfaction of the court by which the defendant stands committed, that the defendant has secreted or conveyed away his effects, to defraud his creditors.

Power of
awarding exe-
cution out of
one district
into the other.

See Tables.

XXXIX. When any person against whom judgment shall be given in any of the courts of common pleas, shall not have sufficient goods, chattels, lands or tenements, to satisfy such judgment, within the jurisdiction of the court wherein such judgment shall have been obtained; but shall have goods, chattels, lands or tenements within the jurisdiction of the other court of common pleas,—it shall be lawful for the judge or judges of the court wherein judgment shall have been obtained to award execution to the sheriff of the other district, who, after getting the writ indorsed by one of the judges of the court for the district in which the goods, chattels, lands, or tenements are situated, shall execute the same, and make return thereof to the court from which it issued; and such writ and return shall be by him sent to the sheriff of the district from whence the writ was originally awarded, to be delivered into the court that issued the same; The sheriff executing such writ, shall be answerable for his doings relative thereto, before the court from which it was originally awarded; And the judges of the court of common pleas for the one district, may in like manner award execution against the body of a person residing in the other, in cases where such execution is by the law allowed; and the sheriff executing the writ to him in such case directed, shall convey the body of such person into the prison of the district wherein such person shall be arrested.

27 Geo. III.
Cap. 1.

An Ordinance to regulate the proceedings, in certain cases, in the Court of King's Bench, and to give the subject the benefit of Appeal from large Fines.

Preamble.

Qualification
of jurors in
criminal
causes.

WHEREAS it is difficult to find jurors in the towns of Quebec and Montreal, who are proprietors of freehold:—It is enacted by His Excellency the Governor and legislative council, that in all inquests and trials by jury in criminal cases, it shall be no good challenge or exception that the juror is not a freeholder, if such juror, being otherwise qualified, is in the actual possession of lands, tenements, or real estate, charged with and paying an annual rent of fifteen pounds or upwards; and upon any such inquest or trial the defect of the pannel in petty jurors, so qualified, may

be supplied, as often as it happens, by a tales, as in other ordinary cases, at the discretion of the court, in such manner as the said court shall adjudge proper, to give the party prosecuted, in any criminal cause, jurors for his trial, one half of whom at the least, may in the judgment of the court, be competently skilled in the language of his defence, if the same be either the English or French language : Be it also enacted by the same authority, that the terms thereof be limited to ten days from the first day inclusive, and that the return days in the terms be such as the said court shall by rule or order fix and appoint : And if it shall so happen, that offenders brought up from very remote distances of the western country in the district of Montreal, or the witnesses, may not arrive in time for the trials, while the court is sitting at Montreal, then the bodies of the prisoners and their causes may be carried to Quebec, and be there proceeded in, to trial, judgment and execution, as fully to all intents and purposes as the same might have been had in the said district of Montreal, and by a jury of the same, and the witnesses be as compellable to attend at Quebec, as they were before to appear at Montreal, and new recognizances may be taken in that purpose accordingly.

Terms of the King's Bench limited to ten days.

But see Tables.

Offenders and witnesses from remote distances of the district of Montreal.

II. And inasmuch as His Majesty in his great grace to the subject, has been pleased to signify it to be his royal pleasure, that appeals be admitted to himself in privy council, in all cases of fines imposed for misdemeanors, provided the fines so imposed amount to or exceed the sum of one hundred pounds, sterling, the appellant first giving good security that he will effectually prosecute the same, and answer the condemnation, if the sentence, by which such fine was imposed in this Province be affirmed :—Be it therefore enacted, by the same authority, that as often as such case may happen, the execution, and all proceedings in the nature of execution, shall be stayed as to such fine, whenever such security shall be offered by recognizance filed for that purpose ; and that whenever a doubt shall arise concerning the sufficiency of the security, it shall be deemed to be valid, and stay execution, unless the Governor or Commander-in-chief for the time being, shall in twenty days from the filing of the said recognizance, certify in writing to the court his disapprobation of the security so offered, and so *toties quoties*, until sufficient security shall be given in manner aforesaid.

Appeal to the King in council from large fines.

An Ordinance to continue in force for a limited time, an Ordinance made in the twenty-fifth year of His Majesty's reign, intituled, *An Ordinance to regulate the proceedings in the Courts of Civil Judicature, and to establish trials by juries in actions of a commercial nature, and personal wrongs to be compensated in damages*, with such additional regulations as are expedient and necessary.

27 Geo. III. Cap. 4.

BE it enacted and ordained by His Excellency the Governor and the legislative council, &c., that an ordinance, &c. (25 Geo. 3. c. 2. *Mere continuing clause. Effete.*)

25 G. 3. c. 2.

II. And whereas additional regulations are at this time found to be expedient and useful :—Be it further enacted, by the same authority, that in every instance where the fact is not verified by a verdict of the jury, but by other proof, or the testimony of witnesses, the same shall be inserted in the record of the cause, that in case of appeal the whole proceedings may

In cases where there is no jury, the fact to be inserted in the record.

go up to be adjudged in the superior tribunal, as regularly and as fully as the same was before the court of common pleas.

If the judgment be upon any law, usage or custom of the Province, the same to be stated the record, if the exception to be allowed.

See Tables.

III. And wherever the opinion or judgment of the said court of common pleas is pronounced upon any law, usage or custom of the Province, the same shall in like manner be stated upon the minutes or record of the court, and referred to and ascertained, that the real ground of the opinion or judgment may also appear to the court of appeals; and upon all opinions conceived by any party to be to his injury, he shall be allowed his exception, to be preserved in the minutes; all which proceedings shall be transmitted under the signatures of the judges, or any two of them, and the seal of the court, that all His Majesty's subjects, and especially his Canadian subjects, by these means may be protected in the enjoyment of all the benefits secured to them for their property and civil rights, by the statute passed in the fourteenth year of His Majesty's reign, intituled, *An act for making more effectual provision for the government of the Province of Quebec in North America*, and by the ordinance above mentioned.

The same in the court of appeals.

See Tables.

IV. And be it further enacted, &c., that in all cases adjudged in the provincial court of appeals, where the same may be appealed to His Majesty in his privy council, and where their opinion or judgment is pronounced on any law, custom or usage of the Province, the same shall in like manner and for the same reason as hereinbefore mentioned, be stated upon the record, or referred to and ascertained.

Appellate jurisdiction of the court of appeals touching security.

VI. And to take away all doubts and scruples with respect to the right of appeal in any cause before the said courts of common pleas:—Be it enacted and declared, &c., that the court of appeals shall be deemed and adjudged to have an appellate jurisdiction, with all the power necessarily annexed to such jurisdiction, and that it shall henceforth belong to the provincial court of appeals, to determine the question when security shall be requisite, and the sufficiency thereof, and the admission, dismissal or remission of appeals, and the supply to the defects of the record, and of the effect of the appeal as a supersedeas of all or any proceedings in the lower courts, for the stay of execution on the judgment of the same, or any process of the nature of execution; with authority also to make rules and orders to regulate, effectuate and accelerate the proceedings in all causes of appeal, for the advancement of justice, and to prevent unnecessary delays and expense in the same.

Attachment in certain cases only.

But see Tables.

X. And be it further enacted, &c., that no process of attachment, except in the case of the *dernier équipieur*, according to the usage of the country, shall hereafter be issued for attaching the estate, debts and effects of what nature soever, of any person or persons whomsoever, whether in the hands of the owner, the debtor, or of a third person, prior to trial and judgment, except there be due proof on oath (to be indorsed on the writ of attachment) to the satisfaction of one of the judges of the court issuing the same, that the defendant or proprietor of the said debts and effects is indebted to the plaintiff in a sum exceeding ten pounds, and is about to secrete the same, or doth abscond, or doth suddenly intend to depart from the Province with an intent to defraud his creditor or creditors, and that the defendant is then indebted to the plaintiff and he doth verily believe that he should lose his debt or sustain damage without the benefit of such attachment.

XI. Provided always, that nothing herein contained shall be construed to Landlords. the prejudice of the rights of landlords in their legal course for the recovery of rents, according to any former mode of proceeding by any law, usage or custom whatsoever : And provided also, that whenever the defendant or debtor shall either pay the debt and costs, or give security to the sheriff or officer for the goods so attached, as in case of bail or personal arrests subject to justification in court, to answer the value of the goods and abide the judgment of the court, the same shall be forthwith restored ; and for that purpose, the defendant or debtor shall be allowed forty-eight hours, after which period, if the debt and costs be not paid, nor security given, the goods so seized shall remain attached and held by the sheriff or officer, to answer the judgment of law. If security be given after attachment of goods.

An Act to continue the Ordinances regulating the practice of 29 Geo. III.
the Law, and to provide more effectually for the dispensation Cap. 3.
of Justice, and especially in the New Districts.

BE it enacted by His Excellency the Governor and the legislative council, and it is hereby enacted by the authority of the same, that the Continuation of the two Ordinances.
act, &c., (25 Geo. 3. c. 2 and 27 Geo. 3. c. 4. *Mere continuing clause.*
Esqte.)

II. And the better to adapt the general provision to the present condition of the Province, lately divided into the five new districts of Gaspé, Lunenburg, Mecklenburg, Nassau and Hesse :—Be it further enacted, &c., that it shall be no exception or challenge to a juror, on any inquest or trial in either of the said new districts, that he is not a freeholder, if such juror, being otherwise qualified, shall have been for one year the actual occupant of one hundred acres of land under the permission or authority of the government, within the district for which he is summoned, and shall have had a certificate thereof signed by the Governor or Commander-in-chief for the time being, or under the signature of the surveyor general or deputy surveyor general, or any deputy of them or either of them. Qualification of jurors in the five new districts.
But see Tables.

V. And to the end that the government may have full information of the proceedings of the said courts of criminal jurisdiction :—Be it also enacted by the same authority, that it shall be the duty of the said courts, with all convenient speed, to transmit to the Governor for the time being, not only copies of the indictment, information or charge, and of the plea and other proceedings in every cause before them had, but of the written and parole testimony read and given to the jury, and the scope and substance of the points ruled in evidence, and of their charge to the jury, and copy of the verdict, and of every material transaction in the cause, together with such observations as they may think proper to make on every such cause and trial, and the whole under the signatures of the majority of the judges before whom every such trial was had : Provided always, and be it nevertheless enacted by the same authority, that it shall not be necessary to make such report of the proceedings, nor to stay the execution of the sentence or judgment in any case where it shall not extend to life or limb, nor to any greater fine, penalty or forfeiture than the sum of twenty-five pounds, sterling money of Great Britain. Copies of the proceedings to be transmitted to the Governor.
But see Tables.
Proviso.

And wherever so great a sum shall be adjudged for a fine, forfeiture or penalty, in any court of sessions of the peace to be held in either of the said Case where execution shall

be stayed upon new districts, execution shall in like manner be stayed, until such information is given to the government by the major part of the justices before whom the trial was had, or judgment given, as is above directed to be given by the courts of oyer and terminer and general gaol delivery, except that it shall not be necessary in such courts of sessions to reduce to writing all the testimony that may be given to the jury on trials before them had, but that instead thereof, it shall suffice to report only the main scope and substance thereof, and that the execution in every case to the amount aforesaid, given by either of the courts of sessions of the peace of the said new districts, shall also await the signification of the pleasure of the Governor or Commander-in-chief, in the manner aforementioned.

Exception.

Sale of moveables in the new districts.

But see Tables.

Sale of real estates.

Idem.

In personal actions, no exception to be taken by reason of the domicile of the defendant.

Appeals from the new districts.

But see Tables.

XII. Where moveables shall be taken in execution by the sheriff of the district of Hesse, Luneburg, Mecklenburg, or Nassau, or Gaspé, he shall cause such seizure to be published at the church door of the parish immediately after divine service, on the first Sunday succeeding such seizure; or if there be no church in the township or parish, then such seizure shall be notified by publication or advertisement in writing, affixed to the door of the court-house of the district, and also at the nearest grist-mill, as soon as may be after such seizure and the said notification shall design the day and place where and when he means to proceed to the sale thereof, not protracting such sale beyond fourteen days from the date of such publication: And when lands and tenements shall be taken in execution by the sheriff of either of the said districts, he shall advertise the sale by three several publications in writing, to be fixed at the door of the court-house of the district, and in some ostensible place in the office of the clerk of the court whence the execution issued, and at the nearest grist-mill; such notice to be renewed the first Monday of three successive months preceding the sale, which shall not take place in less than four months after the date of the first publication.

XIII. Be it further enacted, &c., that in all personal actions to be instituted in any of the districts in this Province, it shall not be a legal exception that the cause of action arose out of such district, or that by reason of the domicile of the defendant it ought to be brought elsewhere, but that all the proceedings in such actions, and the judgments and executions thereon, shall be deemed and adjudged to have the like force and effect in every respect, as if the cause of action and ground of defence had arisen, and all transactions relating thereto had happened in the district where the action is instituted; any law, usage or custom to the contrary notwithstanding.

XV. And that parties adjudged in the said new districts may not be deprived of their right and benefit of appeal:—Be it further enacted, &c., that the giving security as heretofore used on the bringing of a writ of appeal, shall as effectually suspend execution in causes of the said districts, as in the old districts on the actual production of a writ of appeal; such appellant in all other respects conforming to the law of appeals as it now stands, and suing out within twenty days after judgment an office copy of the proceedings in the cause adjudged; which, to prevent delays, shall be as effectual before the appellate jurisdiction, as if transmitted according to the present law and usage in appeals, from the common pleas courts of the old districts.

An Act to continue and amend the Acts or Ordinances therein mentioned, respecting the Practice of the Law in Civil Causes. 31 Geo. III.
Cap. 2.

WHEREAS an act was passed in the twenty-fifth year of His Majesty's reign, intituled, *An ordinance to regulate the proceedings in the courts of civil judicature, and to establish trials by juries in actions of a commercial nature, and personal wrongs to be compensated in damages*; and in the twenty-seventh year of His Majesty's reign, the said act was continued by another act, with certain additional regulations; and by another act passed in the twenty-ninth year of His Majesty's reign, both the said acts were further continued to the thirtieth day of April instant, by an act which made further provision for the dispensation of justice, and especially in the new districts; and for as much as there is reason to apprehend that the condition of this country may soon be the subject of reforms, by the authority of the Crown and parliament of Great Britain:—Be it therefore enacted, &c., that the several acts and ordinances aforementioned shall continue to be in force until other provision be made for the subjects to which the said several acts and ordinances relate. Preamble.
25 Geo. 3. Cap.
2, 27 Geo. 3.
Cap. 4, 29 Geo.
3. Cap. 3, made
permanent.

III. And to avoid delays and prevent expense, where witnesses in civil causes reside in the Indian countries and other remote places:—Be it also enacted, &c., that the testimony of such distant witnesses may be obtained by commission in the nature of the *commission rogatoire*, the carriage whereof shall belong to the party moving for the same, and the commissioners shall be appointed in the manner following, viz: each party, where both joined in the commission, shall name four commissioners, and also alternately strike out two, and that the commission shall issue to such three of the same four, as two of the judges of the court issuing the same commission shall name; and with the commission there shall go such interrogations and cross interrogations as the parties may have respectively filed in the office of the clerk of the court out of which the same commission shall issue, which interrogatories shall be kept secret, as well as the depositions returned therewith, until the order of two judges of the court be given for the publication thereof; and in default of joining in such commission, the same may issue to the commissioners named by the party moving for and having the carriage thereof. Commissions to examine witnesses may issue to the Indian countries and remote parts of the Province.
See Tables.

IV. And be it also enacted by the same authority, that whenever such commission shall be executed according to the tenor thereof, and conformable to such instructions as the judges granting the same, may, under their signatures, order and direct to be annexed thereto, for the better execution thereof, the proofs and depositions returned therewith shall be as valid as if rendered in open court in due form of law; and every such commission may be granted in the vacation, by two judges of the court, after reasonable notice to and due hearing of the opposite party or his attorney or counsel, and it shall not be denied to any party requesting the same, whenever such cause shall be shewn therefor, as would be sufficient by the law as it now stands, for issuing a *commission rogatoire*, for taking such proofs and testimony as could not be obtained within the jurisdiction of the court in which the suit or action may be instituted: Provided always, that nothing herein contained shall be construed to prevent the court from proceeding in the cause, and to determine the same, without a return of the commission, whenever it shall appear that the same commission was issued merely for delay, or that the return thereof is suspended for a longer period than justice Proofs taken by commission to be valid.
See Tables.
Provido.

and equity may require, nor to give the proofs and depositions so to be obtained by commission, any greater authenticity and admissibility than they would have or be entitled to upon the offer of them in open court.

39 Geo. III. An Ordinance to facilitate the production of Parol Proof in
Cap. 2. Civil Causes.

Preamble.

Certain provisions of 31 Geo. 3. Cap. 2. as to commissions for the examination of witnesses explained.

WHEREAS provision was lately made by an ordinance of the Province of Quebec, for the examination of remote witnesses, by an act intitled, *An act to continue and amend the acts or ordinances herein mentioned, respecting the practice of the law in civil causes*, passed in the thirty-first year of His Majesty's reign; and whereas it may be doubted whether commissions of the like nature may issue for the examination of witnesses within the Province, and especially within the county or district where the cause was instituted and is pending and undetermined, and the requirement of the personal attendance at court of all witnesses, may be injurious to suitors and witnesses, and by obstructing the progress of industry, hurtful to the public interest, and it consists with the English course in chancery, and with the course of courts in this country, prior to the conquest, to take the examination of witnesses in actions and controversies, by commission in various instances:—Be it therefore ordained, &c., that the like powers now enjoyed by the courts of common pleas for issuing commissions for the examination of witnesses in remote places, may be exercised for issuing commissions for examinations in any part of the Province, and even in the same district or county where the cause may be pending, if the witness to be examined may be resident at thirty miles and upwards from the court-house where the cause is to be adjudged: And that such commissions shall or may be obtained and issue and be executed, and have the like effect, as directed by law respecting commissions for examinations in remote places.

Examinations may be taken before a judge of the court when on circuit.

But see Tables.

II. And for as much as the judges of the common pleas are in the practice of making frequent *tournées* or circuits in their counties for the trial of small causes not exceeding ten pounds, sterling, and the examinations so to be taken by commission, may be sometimes conveniently executed by a single judge of the court where the cause is triable:—Be it further ordained, &c., that the examinations, when taken before a single judge of the court in which the action is pending, after the manner and in the cases for which a commission might have been issued for examining witnesses within the county but thirty miles from the court-house thereof, shall be as valid in the law, as if taken by commission or before two judges in open court: And that such remedy as the law permits or may require, for compelling the attendance of witnesses before the court of common pleas in open court, may be taken for compelling their attendance on the examinations hereby allowed to be taken, whether before commissioners or before a single judge; any thing in any former law, usage or custom, to the contrary notwithstanding.

Proviso—as to the competency of the judge to hear the cause.

III. Provided always, and be it also ordained, &c., that nothing herein contained shall be construed to authorize any one judge to take such examinations on the circuit, who may not be competent to have cognizance of the cause, and to hear and adjudge in the same, in open court, nor to authorize the giving in evidence to a jury, the depositions taken by commission within the county where the trial by jury shall be had, without the consent of both parties entered upon the minutes of the court.

IV. And provided also, and be it further ordained, &c., that the fine upon a witness for his default in not attending to give testimony, shall be at the discretion of the court where the cause is pending, and shall not exceed the sum of ten pounds, currency; and that the court setting such fine shall have authority to compel the payment thereof by process to any place in the Province, though the same be not within the district or county where it sits, whether such default or contempt be to the court, or to commissioners, or a single judge in manner afore-mentioned: And the same process shall be executed in any district by the officers therein as the process of the court thereof may be, but as the court issuing the same shall command; which fines so recovered shall be paid to the receiver general for the use of the Crown, and without detriment to the right of a party injured by the default of a witness to his remedy by private action at law.

Proviso—As to the amount of penalty on a witness for non-attendance, and the mode of enforcing it.

An Act for the division of the Province of Lower Canada, for amending the Judicature thereof, and for repealing certain Laws therein mentioned. 34 Geo III. Cap 6.

MOST GRACIOUS SOVEREIGN,

WE, Your Majesty's most dutiful and loyal subjects, the legislative council and representatives of Your people of the Province of Lower Canada, having taken into our most serious consideration the message communicated to us last session, by His Excellency the Lieutenant-Governor, then Your Majesty's Commander-in-chief of this Province, recommending a plan for altering and amending the judicature thereof, and for establishing a due and uniform administration of justice therein, and having maturely deliberated upon the means recommended in the said message, for securing to Your people in this Province the important objects of Your Majesty's paternal care, we do, with profound gratitude for the same, most humbly beseech Your Majesty, that it may be enacted:—And be it enacted, &c., that the said Province of Lower Canada shall consist of three districts, to be called the district of Quebec, the district of Montreal and the district of Three-Rivers, which shall be divided by the following lines; to wit, the district of Quebec shall be bounded to the westward by the eastern line of the seigniory of Dorvilliers, as far as it extends, and thence by a due north-west line to the northern boundary of this Province, on the north side of the river St. Lawrence, and by the eastern line of the seigniory of St. Pierre les Becquets, as far as it extends, and thence by a due south-east line to the southern boundary of this Province, on the south side of the river St. Lawrence; and the said district of Quebec shall comprehend all that part of this Province which lies to the eastward of the before mentioned western boundary lines of the said district: the district of Montreal shall be bounded to the eastward by the western line of the seigniory of Masquinongé as far as it extends, and thence by a due north-west line to the northern boundary of this Province, on the north side of the river St. Lawrence, and by the western line of the seigniory of Yamaska as far as it extends, and thence by a due south-east line to the southern boundary of this Province, on the south side of the river St. Lawrence; and the said district of Montreal shall comprehend all that part of this Province which lies to the westward of the before mentioned eastern boundary lines of the said district: and the district of Three-Rivers shall be bounded to the eastward by the before mentioned western boundary lines of the district of Quebec, and to the westward by

Preamble.

Division of the Province into three districts.

But see Tables. Quebec.

Montreal.

Three-Rivers.

the before mentioned eastern boundary lines of the district of Montreal, and shall comprehend all that part of this Province which lies between the said boundaries: and the said districts shall also respectively comprehend all the islands in the river St. Lawrence, opposite to the shores thereof, which are included within the respective limits aforesaid.

Establishment
of the court of
King's bench
for the districts
of Quebec and
Montreal.

But see Tables.

II. And be it further enacted, &c., that there shall be constituted and erected in each of the said districts of Quebec and Montreal, respectively, a court to be called the court of King's bench; that the court of King's bench for the district of Quebec shall consist of His Majesty's chief justice for the said Province, and three puisné justices; and the court of King's bench for the district of Montreal shall consist of His Majesty's chief justice of the said court, and three puisné justices; and that the said courts, in the respective districts aforesaid, shall have original jurisdiction to take cognizance of, hear, try and determine, in the manner hereinafter enacted, all causes, as well civil as criminal, and where the king is a party, except those purely of admiralty jurisdiction, and such as are hereinafter excepted and provided for the inferior district of Gaspé, as part of the said district of Quebec.

Terms for trial
of crimes and
criminal offences
at Quebec
and Montreal.

But see Tables.

III. And for the administration of justice, in criminal cases, it is further enacted, &c., that there shall be held by two or more justices of the said court of king's bench, one of whom shall always be His Majesty's chief justice of the Province or the chief justice of the court of King's bench at Montreal, within each of the aforesaid districts of Quebec and Montreal, two sessions of the said court of King's bench, in every year, for the cognizance of all crimes and criminal offences, at the times and places hereafter mentioned; to wit, at the city of Quebec, the last ten days in the months of March and September, and at the city of Montreal, the first ten days in the said months of March and September, and that every juridical day during the said sessions shall be a return day.

Proviso for
commissions of
oyer and terminer.

IV. Provided always, and it is hereby enacted, that nothing in this act contained shall extend or be construed to extend to prevent the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being, from issuing at any time or times, other than during the sittings of the said terms, commissions of oyer and terminer and general gaol delivery, for such district and county within this Province, as shall be deemed expedient and necessary.

Suspension of
the execution
of sentences of
courts of oyer
and terminer.

V. Provided also, and it is further enacted, &c., that in every case where any commission of oyer and terminer and general gaol delivery shall issue, the execution of every sentence or judgment of such court, which shall extend to life or limb or to any penalty, fine or forfeiture, exceeding the sum of twenty-five pounds, sterling money of Great Britain, shall be suspended until the approbation of the Governor, Lieutenant-Governor, or person administering the government of this Province shall be signified thereon, by warrant under his hand and seal at arms.

Proceedings of
the courts of
oyer and terminer
to be reported
to the Governor
in certain cases.

VI. And to the end that the government may have full information of the proceedings of such courts of oyer and terminer and general gaol delivery:—Be it also enacted, &c., that it shall be the duty of the said courts, with all convenient speed, to transmit to the Governor, Lieutenant-Governor, or person administering the government of the Province for the time being, not only copies of the indictment, information or charge, and of the plea and other proceedings in every such cause before them had, but the

scope and substance of the points ruled in evidence, and of their charge to the jury, and copy of the verdict, and of every material transaction in the cause, together with such observations as they may think proper to make on every such cause and trial; and the whole under the signatures of the majority of the judges before whom every such trial was had: Provided always, and be it nevertheless enacted by the same authority, that it shall not be necessary to make such report of the proceedings in any case where it shall not extend to life or limb or transportation, nor to any greater fine, penalty or forfeiture than the sum of twenty-five pounds, sterling money of Great Britain.

VII. And for the speedy administration of justice in all suits or actions of a civil nature; cognizable by the aforesaid courts of King's bench, or where the King may be a party:—Be it further enacted, &c., that two or more justices of the said courts, respectively, shall hold in the city of Quebec, for the district of Quebec, and in the city of Montreal, for the district of Montreal, four superior terms of the said courts in every year, that is to say, on the first twenty juridical days of the months of February, April, June and October; and the said courts shall continue to be held every day (Sundays and holy-days excepted) during the said several terms, and the first and every other juridical day in each term, within each of the said districts, shall be return days for all writs and process issuing from the said courts, respectively: Provided always, that the said courts shall only take cognizance in the superior terms aforesaid of suits or actions wherein the value of the matter in dispute shall exceed the sum of ten pounds sterling, or if relating to the inferior district of Gaspé, hereinafter erected, shall exceed the sum of twenty pounds sterling, unless the said action shall relate to any fee of office, duty, rent, revenue, or any sum or sums of money payable to His Majesty, titles to lands or tenements, annual rents, or such like matters or things where the rights in future may be bound.

Superior terms for trial of civil causes at Quebec and Montreal.

But see Tables.

VIII. And be it further enacted, &c., that each of the aforesaid courts of King's bench shall have authority in the superior terms before established, to grant emancipation of minors on the counsel of their relations or friends, and to hear and determine all legal matters and causes for the rescission of all contracts and deeds, and to rescind and annul the same in the same manner as if special letters of emancipation and rescission had been in the first instance obtained, conformable to the usage under the government, prior to the conquest of this country; and the said courts of King's bench shall, respectively, in the superior terms aforesaid, have full power and jurisdiction, and be competent to hear and determine all complaints, suits and demands of what nature soever, which might have been heard and determined in the courts of *prevôté*, *justice royale*, *intendant*, or superior council, under the government of the Province, prior to the year one thousand seven hundred and fifty-nine, touching rights, remedies and actions of a civil nature, and which are not specially provided for by the laws and ordinances of this Province, since the said year one thousand seven hundred and fifty-nine; and the said courts of King's bench shall be respectively competent to award and grant all such remedy, as may be necessary for effectuating and carrying into execution the judgment or judgments thereof, which may be made in the premises aforesaid, and which to law and justice shall appertain: Provided always, and it is also enacted, that nothing in the present act shall extend to grant to the aforesaid courts of King's bench, any powers of a legislative nature, possessed by any court prior to the conquest, or to render necessary

Special powers granted to the judges in and out of court.

the presence and authority of more than one justice of the said courts of King's bench in all matters which require despatch, such as the interdiction of insane persons, the election of tutors or guardians, curators and other counsels of relations, closing of inventories, attestation of accounts, insinuations, affixing and taking off seals of safe custody, and other acts of the same nature, which may be done either in or out of court, or out of term : Provided also, that nothing in the present act shall extend to revoke or annul an ordinance of the Province of Quebec, of the thirty-first year of His Majesty's reign, chap. 6th, intituled, *An act or ordinance concerning the building and repairing of churches, parsonage-houses and church-yards.*

Powers of deputation by the Judges in certain cases.

IX. And whereas great inconveniences may arise by requiring the personal attendance of relations or friends, before one or more of the justices of the said courts of King's bench, to counsel and advise upon the appointment of guardians or tutors, curators to absentees, or to vacant estates, and other matters which require such counsel and advice, where the said relations or friends reside at the distance of five leagues and upwards from the towns of Quebec or Montreal, although within the respective districts where such courts may have jurisdiction :—For remedy thereof, be it further enacted, &c., that the said courts of King's bench respectively, or any justice thereof, shall have full power and authority to authorize, upon application of parties, some notary, and for want of a notary, some other fit person residing near the habitation of such relations or friends, to call them together and administer an oath according to law, and to receive their counsel and opinion touching the matter so committed to them in trust, and the same to set down in writing in due form, and transmit to the respective court, from which such power and authority may have been received ; and any justice or justices thereof shall have full power and authority to proceed thereupon, and grant every such act, order or appointment, in as ample a manner as if the said relations or friends had been present, and personally given their counsel on the matter in question before him or them ; and it shall be also lawful for all or either of the judges of the said court of King's bench, respectively, to appoint such notary, or other fit person as above said, for affixing and taking off seals, upon petition presented to that effect.

Two terms of the court of King's bench for criminal and civil causes at Three-Rivers, and powers granted to the judges thereof.

But see Tables.

XI. And whereas it will contribute to the ease and convenience of His Majesty's subjects, residing in the district of Three-Rivers, that all causes relating thereto be there decided :—Be it therefore enacted, &c , that there shall be held at the town of Three-Rivers, for the district of Three-Rivers, by two of the justices of the courts of King's bench for the districts of Quebec and Montreal, and the provincial judge to be appointed for the district of Three-Rivers, a court of King's bench to sit in two terms every year, that is to say, from the thirteenth to the last day of each of the months of March and September, both days inclusive, (Sundays and holy-days excepted ;) and during the four first juridical days of each of said terms, the said two justices and provincial judge, or any two of them, with the chief justice of the Province, or the chief justice of the court of King's bench at Montreal, shall have cognizance of all crimes and criminal offences, and during the remainder of each of said terms, the said two justices and provincial judge, or any two of them, shall have original jurisdiction, take cognizance of, hear, try and determine, all civil suits or actions, and where the King is a party, in said district, those purely of

admiralty jurisdiction, and suits or actions wherein the value of the matter in dispute shall not exceed the sum of ten pounds, sterling, excepted, unless the said suits or actions not exceeding ten pounds, sterling, shall relate to any fee of office, duty rent, revenue, or any sum or sums of money payable to His Majesty, titles to lands or tenements, annual rents or such like matters or things, where the rights in future may be bound; and the first and every juridical day in each part of the said terms for criminal and civil causes, shall be return days for all writs and process, issuing from the said court for criminal and civil causes, respectively; and the said court of King's bench, to be held as aforesaid at Three-Rivers, and the justices and provincial judge composing the same, or any of them, shall have, within that district, both in and out of court, the same powers and authorities in all cases, as are granted by this act to the courts of King's bench of the districts of Quebec and Montreal, and the justices thereof, or any of them, in or out of court, or out of term.

XIII. And be it further enacted, &c., that the Governor, Lieutenant-Governor, or person administering the government, the members of the executive council of this Province, the chief justice thereof, and the chief justice to be appointed for the court of King's bench at Montreal, or any five of them (the judges of the court of the district wherein the judgment appealed from was given, excepted) shall be constituted, and are hereby erected and constituted, a superior court of civil jurisdiction or provincial court of appeals, and shall take cognizance of, hear, try and determine all cases, matters and things appealed from all civil jurisdictions and courts, wherein an appeal by law is allowed: Provided always, that no member of the court of appeals, shall be considered disqualified from sitting on appeals from the district of Three-Rivers, excepting the judges who may have given the judgment appealed from. Provincial courts of appeals constituted. But see Tables. Proviso.

XXVII. And be it also enacted, &c. that an appeal shall lie to the court of appeals of this Province, hereinbefore mentioned and constituted, from every judgment of the present court of common pleas, in all cases wherein by law an appeal may now be brought therefrom to the present court of appeals, and from every judgment which may be given in the civil superior terms of the said courts of King's bench for the districts of Quebec and Montreal, or civil terms thereof to be held at Three-Rivers, in all cases where the matter in dispute shall exceed the sum of twenty pounds, sterling, or shall relate to any fee of office, duty, rent, revenue or any sum or sums of money payable to His Majesty, titles to lands or tenements, annual rents or such like matters or things where the rights in future may be bound, although the immediate value or sum in appeal be less than twenty pounds, sterling: Provided that security be first duly given by the appellant, that he will effectually prosecute the said appeal and answer the condemnation, and also pay such costs and damages as shall be adjudged, in case the judgment or sentence of the court of King's bench be affirmed, or that the appellant agrees and declares in writing at the clerk's office of the court appealed from, that he does not object to the judgment given against him being carried into effect according to law, on which condition, he shall give security only for the costs of appeal, in case the appeal is dismissed; and on condition also, that the appellee shall not be obliged to render and return to the appellant more than the net proceeds of the execution, with the legal interest on the sum recovered, or the restitution of the real property, and of the net value of the produce and revenues of the real property, whereof What causes may be appealed from the court of King's bench, and on what condition. See Tables.

the appellee has been put in possession by virtue of the execution, to take place from the day he recovered the sum or possessed the real property, until perfect restitution is made, without any damages against the appellee by reason of the said execution in case the judgment is reversed; any law, custom or usage to the contrary notwithstanding.

Appeals in error on the verdict of a jury.

XXVIII. And be it further enacted, &c., that wherever the judgment appealed from shall be founded on the verdict of a jury, no other appeal shall lie than an appeal in error, that the law only and not the fact may be drawn into question.

Rules of practice in the courts

XXIX. And be it further enacted, &c., that all and singular the laws of this Province which, before the passing of this act, were in force to govern and direct the practice of the respective courts of criminal and civil jurisdiction, or which gave authority to the said courts to make and establish rules of practice, and which are not expressly repealed or varied by this act, shall continue to be in force and be observed respectively by the courts of criminal and civil jurisdiction, constituted by, or to be constituted in pursuance of this act; that is to say, that the laws which concern and direct the present courts of common pleas, in causes exceeding ten pounds, sterling, shall continue to be observed by the courts of King's bench for the districts of Quebec and Montreal, in the superior terms thereof, and by the courts of King's bench in the terms which they shall hold in the town of Three-Rivers; that those which concern and direct the present courts of common pleas in causes not exceeding ten pounds, sterling, shall continue to be observed by the courts of King's bench for the districts of Quebec and Montreal, in the inferior terms thereof, and by the provincial courts of Gaspé and Three-Rivers; and lastly, that the laws which concern and direct the present court of appeals, and the present courts of criminal jurisdiction, and the sessions of the peace, respectively, shall continue to be respectively observed at the provincial court of appeals, and by the courts of criminal jurisdiction and sessions of the peace constituted by, or to be constituted in pursuance of this act.

But see Tables.

Appeals in certain cases to His Majesty in council.

XXX. And be it further enacted, &c., that the judgment of the said court of appeals of this Province, shall be final in all cases where the matter in dispute shall not exceed the sum or value of five hundred pounds, sterling; but in cases exceeding that sum or value, as well as in all cases where the matter in question shall relate to any fee of office, duty, rent, revenue, or any sum or sums of money payable to His Majesty, titles to lands or tenements, annual rents or such like matters or things, where the rights in future may be bound, an appeal shall lie to His Majesty in His privy council, though the immediate sum or value appealed for be less than five hundred pounds, sterling, provided security be first duly given by the appellant, that he will effectually prosecute his appeal, and answer the condemnation, and also pay such costs and damages as shall be awarded by His Majesty, in his privy council, in case the judgment of the said court of appeals of this Province be affirmed, or provided that the appellant agrees and declares in writing, at the clerk's office of the court appealed from, that he does not object to the judgment given against him being carried into effect according to law, on which condition he shall give sureties for the costs of appeal only, in case the appeal is dismissed, and on condition also, that the appellee shall not be obliged to render and return to the appellant more than the net proceeds of the execution, with legal interest on the sum recovered, or the restitution of the real property, and of the net value of the produce and

See Tables.

revenues of the real property, whereof the appellee has been put in possession, by virtue of the execution, to take place from the day he recovered the sum or possessed the real property until perfect restitution is made, but without any damage against the appellee, by reason of such execution, in case that the judgment be reversed; any law, custom or usage, to the contrary notwithstanding.

XXXI. And be it also enacted, &c., that in all cases where appeal shall be allowed to His Majesty in His privy council, execution shall be suspended for fifteen calendar months from the day on which such appeal is allowed, and from the expiration of that period to the final determination of the said appeal, if before the expiration of the said fifteen months, a certificate shall be filed in the court of appeals of this Province, signed by the clerk of His Majesty's privy council, or his deputy, or any other person duly authorized by him, that such appeal has been lodged, and that proceedings have been had thereon before His Majesty in His privy council; and if no such certificate be produced and filed in the provincial court of appeals within the said fifteen months, the said appeal shall not longer operate as a stay of judgment and execution, but the party who obtained judgment in the said provincial court of appeals may sue out execution as if no such appeal had been made or allowed; any law, usage or custom, to the contrary notwithstanding.

Suspension of execution on appeals to his Majesty in council, for a limited time.

XXXII. And be it further enacted, &c., that in all cases where an appeal is by law allowed, from the court of King's bench, to be constituted in pursuance of this act, to the provincial court of appeals hereinbefore mentioned and constituted, as also where an appeal is by law allowed from the said provincial court of appeals to His Majesty in His privy council, no appeal shall be granted or allowed after the expiration of one year, from the date of the final judgment of the said courts respectively; any law, usage or custom, to the contrary notwithstanding: saving always, and excepting every such judgment, whereby the rights of persons under age, *femmes covert*, or persons *non compos mentis*, or otherwise *interdits* may be bound, who may appeal from any such judgment, within one year after the disability, under which they have respectively so laboured, shall have ceased; and in case of the death of any person labouring under any of the said disabilities, his or her heir or heirs, if present in the Province, may appeal from such judgment, within one year after such death, or if absent therefrom, within five years, and also saving and excepting every judgment which shall be given against any person absent from this Province, who may appeal from any such judgment, within one year after such death, or if absent therefrom, within five years; and also saving and excepting every judgment which shall be given against any person absent from this Province, who may appeal from any such judgment, within five years from the date thereof, if he or she does not sooner return to this Province, in which case no appeal shall be admitted after the expiration of one year from the date of such return; and in case of the death of any person within one year after any judgment given against him or her, his or her heir or heirs, if present in this Province, may appeal from such judgment, at any time before the expiration of a year from the death of such person, and if absent, before the expiration of five years from the date of such judgment.

Limitation of appeals in certain cases.

XXXIV. And be it further enacted, &c., that there shall be held, four times in every year, in each of the districts of Quebec, Montreal and Three-Rivers, and in the inferior district of Gaspé, a general session of the peace,

Terms for holding the general session.

sions of the
peace.

by the justices of the peace of each respective district, or any three of them, whereof one shall be of the quorum, who shall hear and determine all matters relating to the conservation of the peace, and whatsoever is or may be by them cognizable, according to the criminal laws of that part of Great Britain called England, and the ordinances or acts in force in this Province; and the said sessions for the districts of Quebec, Montreal and the town of Three-Rivers, shall be held respectively at the cities of Quebec, Montreal and the town of Three-Rivers; that is to say, from the tenth to the nineteenth day of each of the months of January and July, both days inclusive, and from the twenty-first to the thirtieth days of each of the months of April and October, both days inclusive, (Sundays and holy-days excepted;) and the said sessions for the inferior district of Gaspé, shall be held at Bonaventure and Carleton, in the Bay of Chaleurs, at Percé, in the entrance of the Bay of Gaspé, and at Douglas-town, within the said Bay of Gaspé, for eight days immediately following the terms of the provincial court of the said inferior district, (Sundays and holy-days excepted): and two of the said justices of the peace shall sit weekly in rotation, in the cities of Quebec and Montreal, and in the town of Three-Rivers, for the better regulation of the police, and other matters and things belonging to their office, and the names of the justices who are to sit in each week, shall be posted upon the door of the session-house, by the clerk of the peace: Provided always, that nothing herein contained shall be construed to prevent the holding of special sessions of the peace, for the purposes and in the manner by law allowed.

But see Tables.

Estreating of
recognizances
into the courts
of King's
bench.

XXXV. And be it further enacted, &c., that all recognizances which may hereafter become forfeited in His Majesty's courts of general or special sessions of the peace for the districts of Quebec or Montreal, shall be certified and estreated in and into His Majesty's courts of King's bench of the respective districts, twice in every year; that is to say, all recognizances which may become forfeited in the said courts of general or special sessions of the peace, from the beginning of every sessions to be held in the month of January in every year, to the end of every sessions to be held in the month of April in every year, shall be, and are hereby ordained to be certified and estreated in and into the said courts of King's bench, the last day of every term to be held in the month of June yearly; and all recognizances which may become forfeited in the said courts of general or special sessions of the peace, from the beginning of every sessions to be held in the month of July in every year, to the end of every sessions, to be held in the month of October in every year, shall, in like manner, be certified and estreated in and into the said courts of King's bench, the last day of every term to be held in the month of February yearly; and all recognizances which may hereafter become forfeited in the general or special sessions of the peace for the district of Three-Rivers, shall be certified and estreated in and into the court of King's bench of that district; that is to say, all recognizances forfeited in the said sessions of January and April, shall be certified and estreated in and into the court of King's bench, to be held at Three-Rivers aforesaid, in the month of September; and all recognizances forfeited in the said sessions of July and October, shall be certified and estreated in and into the court of King's bench to be held at Three-Rivers aforesaid, in the month of March; and all recognizances which may hereafter become forfeited in the general or special sessions of the peace for the inferior district of Gaspé, shall be certified and estreated once in every year, in and into the court of King's bench to be held for the district of Quebec, in the month of February; and all recog-

But see Tables.

nizances which shall become forfeited in any court of over and terminer, and general gaol delivery, shall be certified and estreated in and into the court of King's bench of the district respectively where such recognizance shall have been entered into, on the last day of the next term after the same shall have become forfeited; on pain, that every officer of or belonging to the said courts of general quarter or special sessions of the peace, to whom it doth, ought, or shall appertain to make certificate or estreat of any of the said recognizances, making default or offending therein, shall forfeit and pay twenty pounds, sterling, for every such default or failure that shall be made in certifying and estreating as aforesaid; the one moiety to the receiver general for the use of the Crown, to be applied for the public uses of this Province and for the support of the government thereof, and shall be accounted for to the Crown through the commissioners of His Majesty's treasury for the time being, as the Crown shall direct, and the other moiety to such person or persons that shall or will sue for the same in any court of record, by action of debt, plaint, bill or information; and which said several courts of King's bench are hereby authorized to cause to be levied in the whole, or to moderate and remit in the whole, or in part, such forfeitures, where it may appear just and reasonable to be done.

XXXVI. And whereas the great extent of this Province may render it often impracticable for the coroner of the district to give his attendance at the different places where it might be necessary:—Be it further enacted, &c., that the captains or senior officer of militia shall be, and hereby are empowered, in their respective parishes, when any marks of violence appear on any dead body, to summon together six reputable house-holders of his parish to inspect the same; and he shall, according to their opinion, report the manner and cause of such death, in writing, to the nearest justice of the peace, that a further examination may be made therein, if necessary.

XXXVII. And be it further enacted, &c., that all the powers and authorities granted by an ordinance, passed by the Governor and legislative council of the late Province of Quebec, on the twenty-ninth day of April, in the twenty-fourth year of His Majesty's reign, intituled, *An ordinance for securing the liberty of the subject, and for preventing of imprisonments out of this Province*, to the courts of King's bench of the said late Province of Quebec, or to the chief justice thereof, or to the commissioners for executing the office of chief justice, or to any judge or judges of the said court of King's bench, regarding the writ of habeas corpus, shall be vested in each of the courts of King's bench, to be constituted in virtue of this act for the districts of Quebec and Montreal, and in all and singular the justices thereof, who shall be subject to the penalty provided by the said ordinance against any of the judges of the court of King's bench: Provided always, and be it further enacted, that when any writ of habeas corpus shall be returnable in vacation time, such writ shall be made returnable at Quebec, before the chief justice of this Province, or at Montreal, before the chief justice of the court of King's bench at Montreal; and in case of the absence or indisposition of either of them respectively, two or more puisné justices of the said courts of King's bench, respectively, shall be necessary to proceed, hear and determine on; * any law or usage to the contrary notwithstanding: Provided * *Sic.* also, and be it further enacted, by the authority aforesaid, that a writ of habeas corpus, according to the true intent and meaning of the aforesaid ordinance, may be directed and run into the district of Three-Rivers, from either of the courts of King's bench aforesaid, or from any of the justices

Captains or senior officers of militia authorized to act as coroners.

Powers granted to the justices of the courts of King's bench, to grant writs of habeas corpus.

But see Tables.

thereof, and shall be made returnable, at the option of the person applying for or demanding the same, either into the terms of the court of King's bench, to be held at the town of Three-Rivers, or in vacation time before either of the chief justices aforesaid, at Quebec or Montreal, to be proceeded on as if such writs had been applied for or demanded by or on behalf of any person confined or imprisoned in either of the districts of Quebec or Montreal.

Reservation of
the rights and
prerogatives of
the Crown.

XLIII. Provided always, and it is declared and enacted, &c., that nothing herein contained shall be construed in any manner to derogate from the rights of the Crown, to erect, constitute and appoint courts of civil or criminal jurisdiction within this Province, and to appoint, from time to time, the judges and officers thereof, as His Majesty, His Heirs or Successors shall think necessary or proper for the circumstances of this Province, or to derogate from any other right or prerogative of the Crown whatsoever.

35 Geo. III.
Cap. 1.

An Act to explain and amend an Act made in the thirty-fourth year of the reign of His present Majesty, intituled, *An Act for the division of the Province of Lower Canada, for amending the Judicature thereof, and for repealing certain Laws therein mentioned.*

Preamble.

Power of issu-
ing summons
for the inferior
district of
Gaspé, &c.

WHEREAS by an act passed by the legislative council and by the house of assembly, in the last session of the legislature of this Province, intituled, *An act for the division of the Province of Lower Canada, for amending the judicature thereof, and for repealing certain laws therein mentioned*, which said act was reserved by the Governor, for the signification of His Majesty's pleasure thereon, and His Majesty hath been graciously pleased to grant His assent to the same, and it was therein enacted, that the county of Gaspé should be erected into an inferior district; and that in the same district there should be appointed a provincial judge, who should hold a provincial court within and for the said district, with full cognizance of, and hear, try and determine in a summary manner, without appeal, every writ, suit or action, and where the King is a party, (those purely of admiralty jurisdiction excepted,) wherein the amount claimed shall not exceed the sum of twenty pounds sterling; and whereas it is expedient that further provision be made regarding the said inferior district of Gaspé:—Be it therefore enacted, &c. (*This section is repealed.—See tables*).

Justices of the
Peace to com-
mit offenders,
&c.

See 'Tables.

IV. And be it further enacted, that it shall and may be lawful for any justice of the peace, or other magistrate having jurisdiction in the district in which any offender may be found, to cause such offender for any crime or offence committed within the limits of this Province, to be arrested and imprisoned, or, in cases where it may be lawful, to be holden to bail in order for his or her trial, before such court of this said Province, which by the laws, statutes and ordinances thereof has cognizance of such crime or offence; and the examination of such offender, and the depositions of the witnesses taken before such justice of the peace, or other magistrate as aforesaid, upon the arrest of such offender, shall be by them respectively returned with all convenient speed into the office of the clerk of such court, together with the recognizances of such witnesses for their appearance at the then next session or term of such court, to testify and give evidence in

such case, which recognizances the justice of the peace, or other magistrate as aforesaid, before whom the examination of such offender shall be had, is hereby authorized to require on pain of imprisonment.

V. Provided always and it is hereby enacted, that in all cases where such recognizances shall by law be forfeited, it shall be lawful for the court to which such recognizances shall so as aforesaid be returned, to proceed thereon in like manner as if the said recognizances had been taken in the district in which such court hath complete jurisdiction; and if such commitment of such offender shall be in a district other than that in which the offence is to be tried, the justices of the court of King's bench of that district in which such offender shall be so imprisoned, or any or either of them, upon application of His Majesty's attorney or solicitor general, and in default of such application, upon the application of such offender, shall issue a writ of habeas corpus, commanding the keeper of the gaol in which such offender shall be so imprisoned, to have the body of such offender before them or either of them, at a convenient time and place to be specified in such writ, together with the true cause of his commitment and detainer; and if thereon it shall appear that such offender is detained upon such commitment as aforesaid, for any crime or offence committed in another district, the justices of the said court of King's bench, or any or either of them, before whom such writ of habeas corpus shall be so made returnable, shall take course for the immediate removal of such offender to the common gaol of the district in which the trial of such offender for such crime or offence is to be had, by warrants under their hands and seals, directed to the keeper of the gaol and to the sheriff of the district in which such offender shall be so imprisoned, and to the keeper of the gaol of the district in which the trial of such offender is to be had, authorizing the deliverance of the body of such offender from the gaol of the district in which such offender shall be so imprisoned, and commanding the sheriff of the district in which the offender shall be so imprisoned to remove the body of such offender forthwith, with all care and diligence, to the gaol of the district in which the trial of such offender is to be had, and commanding the keeper of the gaol of the district in which the trial of such offender is to be had, to receive such offender, charged with such crime or offence, into his custody in the gaol of the said district, there to remain till he be thence delivered in due course of law, which warrants the sheriff of such district, and the keepers of such gaols as aforesaid, are hereby required to execute.

VI. And be it further enacted, that if any witness or witnesses in any criminal case cognizable in the courts of King's bench for the districts of Quebec, Montreal or Three-Rivers, shall reside in any part of this Province without the jurisdiction of that court of King's bench in which such criminal case is cognizable, it shall and may be lawful for the court of King's bench in which such criminal case is cognizable, to issue a writ or writs of subpoena, directed to such witnesses, in like manner as if such witnesses were resident within the jurisdiction of such court of King's bench; and in case such witnesses shall not obey such writ or writs of subpoena, it shall be lawful for the court of King's bench from whence such writ or writs of subpoena issued, to proceed thereon against such witnesses for contempt or otherwise, in like manner as if such witnesses were resident within the jurisdiction of such court; any law, usage or custom to the contrary thereof in any wise notwithstanding.

Powers granted to the justices of the court of King's bench to grant writs of habeas corpus.

See Tables.

And to issue writs of subpoena to witnesses out of their district.

41 Geo. III. An Act to amend certain forms of proceeding in the Courts of
Cap. 7. Civil Jurisdiction in this Province, and to facilitate the
Administration of Justice.

Preamble.

Persons instit-
uting suits
may of right
obtain a writ
or summons
from the clerk
of the court.
Process how
to be tested.

But see Tables.

In actions
brought by
non-residents
the defendant
may demand
security for
costs, &c.

If the defen-
dant does not
appear, plaintiff
to obtain a de-
fault, and such
suit to be heard
ex parte.

But see Tables.

Defendant to
have the bene-
fit of a re-hear-

WHEREAS it is necessary to alter certain forms of proceeding in the courts of civil judicature, in order to facilitate the administration of justice, and that the same may be rendered with greater expedition and advantage to His Majesty's subjects:—Be it therefore enacted, &c., that so much of an ordinance, &c., (25 Geo. 3. cap. 2) as directs any of His Majesty's judges to grant an order, whereby a plaintiff may have and obtain from the clerk of the court, a writ or summons in the language of the defendant, to be issued in His Majesty's name, and tested by the name of such judge, for the purposes therein set forth, shall be, and the same is hereby repealed; and that from and after the passing of this act, it shall and may be lawful for all and every person or persons having a suit of a civil nature to institute in any of His Majesty's courts in this Province, to sue out and as of right to obtain, from the office of the clerks or prothonotaries of such courts respectively, a writ or summons in His Majesty's name, against the party or parties defendant; and that such process, when returnable in any of the superior terms, shall be tested in the name of the chief justice of the court out of which such process shall issue, or in his absence, in the name of the senior puisné justice of such court, and in the district of Three-Rivers, in the name of the provincial judge, and signed by the clerk or prothonotary, and sealed with the seal of such court; and that all process returnable into the inferior terms of the said courts, shall be made out and obtained in like manner, and be tested in the name of the senior puisné judge of such court, and in the district of Three-Rivers in the name of the provincial judge thereof; any law, usage or custom to the contrary notwithstanding.

II. And be it further enacted, &c., that in all actions, oppositions and suits prosecuted before the courts of civil jurisdiction in this Province, by any person or persons residing without the Province, whether such person or persons be subjects of His Majesty or not, the defendant or defendants, or others concerned, may demand and obtain good and sufficient security, at the discretion of the said court, for payment of their costs, in case the plaintiffs or prosecutors should fail in such their said actions, oppositions or other suits; and all proceedings shall be staid and suspended, until such security shall have been offered and received.

III. And be it further enacted, &c., that in all causes exceeding ten pounds, sterling, where the defendant shall not appear in person or by his attorney, on the day of the return in court of the writ of summons sued out against him, upon proof being made of the service of such writ of summons, the plaintiff shall obtain a default against the defendant: And in case such defendant, upon being called on the third day afterwards, shall neglect or refuse to appear, the court may order such suit to be set down for hearing, *ex parte*, on such day as they shall deem convenient, and after having heard and received sufficient proof of the plaintiff's demand, shall cause judgment to be entered against the defendant, with such reasonable costs as they shall think fit, and shall award such execution thereon as the law prescribes in like cases.

V. And be it further enacted, &c., that in every case where judgment may be given upon the default or non-appearance of a defendant, and when the writ of summons hath not been personally served upon the the said de-

defendant, then and in such case, the said defendant shall have the benefit of a ^{ing in certain} re-hearing of the cause, in the same manner as is provided with regard to ^{CASES} absentees in remote parts of the Province, by the second section of the said ordinance of the twenty-fifth year of His present Majesty's reign, chapter ^{Ordinance 26} second, upon the said defendant's making it appear, that the place where the ^{Geo. 3. cap. 2.} said process may have been served, is not his real domicile or usual or actual residence.

VI. And be it further enacted, &c., that in every case of *garantie*, as ^{Manner of} well of *garantie formelle* as of *garantie simple*, where the *garant* lives ^{proceeding in} out of the district of that court in which the original action or suit was instituted, there may issue a writ from the court where such suit or action was instituted, which writ, being first indorsed by the signature of any of His Majesty's judges for such district, may be directed to the sheriff of the district where such *garant* lives, to summon the said *garant* to appear before the court where the suit was instituted, to answer to the *demande en garantie* of said defendant in such original action, and to await the judgment of the said court; and the service of such writ, upon the return of the sheriff of the district where the *garant* resides, to the court where the suit was instituted, shall have the same force and effect as if the said service had been made upon the said *garant* in the district of the said court where the suit was instituted: And in all causes or suits, the plaintiff may, in like manner, summon his *garant*, if any such he has, to intervene, and the court give judgment, as well against the *garant* of the plaintiff as against that of the defendant, as the case may require.

VII. And be it further enacted, &c., that in every case where it is necessary to examine witnesses whose testimony by law ought to be reduced to writing, it shall be lawful to examine the said witnesses in the court-house, out of term time, before two judges of the court of civil jurisdiction. ^{Witnesses} ^{when examin-} ^{ed out of term} ^{time.} *But see Tables.*

VIII. And be it further enacted, &c., that in every case where a debtor may be imprisoned under a writ of *capias ad respondendum*, the said debtor shall be entitled to obtain an alimentary pension from his creditor, as prescribed by the ordinance passed in the twenty-fifth year of the reign of His present Majesty, chapter second, as well before as after judgment rendered against him, upon his petition to any one of the judges of the courts of civil jurisdiction in this Province, if out of term time, or to the said courts, if in term time; the said debtor nevertheless making it appear that he is not worth ^{Debtors impris-} ^{oned under} ^{cap. ad resp.} ^{may obtain an} ^{alimentary} ^{pension.} *See Tables.* ten pounds, sterling, in the manner and form prescribed by the said ordinance.

LX. And it is enacted, that every debtor imprisoned under a writ of *capias ad satisfaciendum* may obtain the allowance fixed by the said ordinance, as well out of term time as during term, by an application to any one or more of the judges of the court, conformably to law. ^{Debtors impris-} ^{oned under ca.} ^{sa. may obtain} ^{the allowance} ^{out of term.}

X. And be it further enacted, &c., that whenever a plaintiff prosecuting for the payment of any *cédule*, note or promise, or the execution of any other act or private agreement, such plaintiff, may, by the conclusions of his declaration, pray, that the defendant do appear in court, to confess or deny the signature to the said *cédule*, note, promise or other act or private agreement, and that such *cédule*, note or promise or other act or private agreement shall have been exhibited, and a copy thereof duly signified to the said defendant with the copy of the declaration, that then and in that case, if the defendant shall fail to appear conformably to the writ of summons, in person ^{Manner of} ^{proceeding for} ^{the payment of} ^{any cédule,} ^{note, &c.} *See Tables.*

Exhibition and
signification to
be served per-
sonally.

or by his attorney, within the three days allowed him to take up his default, the said signature to the *cédule*, note or promise, or other act or private agreement, shall be considered as acknowledged, and the said court shall proceed to adjudge thereon : Provided always, that the exhibition and signification of the said *cédule*, note or promise, or other act or private agreement, shall be made and served on the defendant personally, and that the bailiff or officer serving the same, shall make oath thereof before one of the judges of the said court.

Manner of pro-
ceeding in
cases of oppo-
sition.

Opposition à
fin de conserver.

* * Omitted in
the French.

Duty of the
sheriff after an
opposition is
lodged.

Opposants to
the sale of im-
moveable prop-
erty failing in
the prosecution
of the same,
condemned to
pay costs, &c.

Proviso.

Proviso.

Folle enchère,
re-sale in con-
sequence of.

XI. And be it further enacted, &c., that no opposition to the sale of any immoveable property seized by the sheriff by virtue of a writ of execution, whether such opposition be *à fin d'annuller* or *à fin de distraire* the whole or a part of the property so seized, or *à fin de charges* or *servitudes* on the same, shall be lodged in the hands of the sheriff or received by him, except previous to the fifteen days next before the day fixed for the sale and adjudication thereof; and that no such opposition shall be received by the sheriff, to the sale of any immoveable property which may be had by virtue of any writ of *venditioni exponas*, when all the previous notices and advertisements of the sale, by virtue of the first execution, shall have been made and published, according to law; provided that the sheriff shall have made known in his publication of the sale of the said immoveable property, that such opposition shall not be received during the fifteen days previous to the sale of the same, as above enacted: Provided nevertheless, that the person who shall neglect to make such opposition before the fifteen days above mentioned, *appointed for the sale of the said immoveable property as aforesaid,* shall still have the power of converting his right to such opposition, to an opposition *à fin de conserver* on the proceeds of the sale of the said property, which he may always file within the time fixed for lodging such opposition *à fin de conserver*.

XII. And be it further enacted &c., that in all cases of opposition, whether *à fin d'annuller*, or *à fin de charges* or *à fin de servitudes*, it shall be the duty of the sheriff, in the course of twenty-four hours after such opposition shall be lodged in his hands, to make his return thereof, and to deposit such opposition, with his return, in the office of the prothonotary of the court.

XIII. And it is further enacted, that every *opposant* who shall lodge his opposition as aforesaid, to the sale of any immoveable property, and shall fail in the prosecution of the same, shall be held and condemned to pay, besides the costs and charges to the plaintiff prosecuting the sale, or to the defendant, all damages which may be occasioned thereby, in which damages shall be included the interest of the sum due to the plaintiff for the time that the said sale shall have been stopped or suspended by virtue of such opposition: Provided always, that the plaintiff prosecuting the sale shall have the right to be collocated, and shall be collocated upon the proceeds of the immoveable property for the interest of the sum found due to him, according to his right of collocation: .Provided also, that at all times, when an opposition of the nature above mentioned shall be lodged in the hands of the sheriff, the said sheriff shall not delay or suspend the advertisements and publications of the sale of the property seized, but that he shall not proceed to the sale of the same until such opposition shall be adjudged and decided on.

XIV. And be it further enacted, &c., that whenever it shall appear to the court, by the return of the sheriff, that the purchaser or *adjudicataire* of any

real property seized and sold by the sheriff, shall refuse or neglect to pay the amount of his said purchase, in conformity to the terms and conditions of sale, the said court is hereby authorized, upon motion of the plaintiff prosecuting the sale, or of the defendant, or of any *opposant*, to order and adjudge that the sheriff do proceed *de novo* to sell the said real property, at the *folle enchère* or costs and charges of the said purchaser or *adjudicataire*, after three advertisements on three successive Sundays, at the church door of the parish where the said real property may be situated, and two advertisements in a public paper or gazette; and the said purchaser or *adjudicataire* shall also be liable to all and whomsoever it may concern, for his, her or their damages occasioned thereby: And if by the return of the said sheriff, it shall equally appear to the said court, that the defendant refuses or neglects to deliver up to the said sheriff, or to the purchaser or *adjudicataire*, possession of the real property so seized and sold by the sheriff, it shall be lawful for the said purchaser or *adjudicataire*, upon a motion in court, to obtain a writ of possession directed to the sheriff, in order to enable him to enter into possession and occupation of the said real property, and the said defendant shall be also liable to all costs and damages resulting from his said refusal or neglect.

Purchaser to be liable to all damages.

If defendant refuses to deliver up the real property, a writ of possession may issue.

XV. And be it further enacted, &c., that when any plaintiff or plaintiffs who has or have sued out the writ of execution, in virtue of which any real property has been put to sale, shall become the purchaser or purchasers of the whole or any part of such property, it shall be lawful for such plaintiff or plaintiffs to retain in his, her or their hands, so much of the purchase money as shall not exceed the amount of the sum remaining due and unsatisfied on such writ of execution, until a return thereof shall have been made by the sheriff and the court from whence such writ issued shall have ordered a final distribution of the proceeds, on which such purchaser or purchasers shall be held to pay into the hands of the sheriff so much of his, her or their purchase money, as shall exceed the sum decreed by such order of distribution, to be due to such purchaser or purchasers, and thereon the sheriff shall execute to such purchaser or purchasers a good and sufficient deed of sale for the property so by him, her or them purchased: Provided always, that such plaintiff shall be held to give good and sufficient security to the sheriff, for insuring the damages that may result to the parties concerned, in case of non-payment of the sum which the said plaintiffs shall be subjected to pay to the sheriff, after the adjudgement of order and distribution.

Plaintiff who shall become the purchaser of the real property may retain in his hands a certain part of the purchase money.

Sheriff to execute a deed of sale.

Plaintiff to give security.

XVI. And be it further enacted, &c., that the different courts of civil judicature in this Province, shall have power and authority to make and establish such orders and rules of practice in the said courts, in all civil matters, touching all services of process, execution and returns of all writs, proceedings for bringing causes to issue, as well in term time as out of term, and other matters of regulation within the said courts.

Courts to establish rules of practice, &c.

But see Tables.

XVII. And be it further enacted, &c., that the courts of criminal and civil jurisdiction within this Province shall have power and authority, within their respective jurisdictions, to make a table of fees for the officers of the said courts, the which table the said courts of justice may alter and correct, from time to time, as they shall see necessary; and the officers of the said courts, respectively, are hereby directed to conform to the same.

Courts to make a table of fees.

But see Tables.

XVIII. And be it further enacted, &c., that in all cases of appointment of *tuteurs* or *curateurs*, either to the person or to the estate, or *ad hoc*,

Appointment of *tuteurs* or *curateurs*.

tuteurs, by a single judge, may be set aside by the court.

homologated before one or more of the judges of the courts of this Province, out of court, it shall be lawful, upon petition, (of the relations nearest of kin) to the said court sitting in superior term, in order to set aside and annul such appointment of *tuteurs* or *curateurs*, for the said court, after having taken cognizance of the case and heard the *tuteurs* or *curateurs* appointed by the said act, to set aside and annul such nomination and appointment, for the reasons as are by law in such cases made and provided, and to make and order that a new election and appointment shall be held in the usual form and manner.

Acts of emancipation may be allowed out of court, &c.

XIX. And it is further enacted, that all acts of emancipation may hereafter be allowed out of court, before one or more judges of the said courts of this Province, subject nevertheless to be set aside and annulled in open court, sitting in superior term, in manner and form as provided for respecting acts of *tutelle* and *curatelle*.

48 Geo. III.
Cap. 22.

An Act to authorize the Judges in Civil Causes, in this Province, to delegate the power of administering Oaths, in certain cases therein mentioned.

Preamble.

WHEREAS in a great number of civil causes, from time to time pending in the courts of King's bench for the several districts of this Province, it becomes necessary to order views by *experts*, awards by arbiters and arbitrators, and great delays and expense are occasioned in procuring, from distant parts of the country, the attendance of such *experts* and of the witnesses to be heard before the said *experts*, or before the said arbiters or arbitrators, as the case may require, to make oath before the judges of the court in which such causes are pending, previous to their proceeding thereon; in order therefore to remedy such inconveniences:—Be it enacted, &c., that in every civil cause pending and undetermined in any of the courts of King's bench, or in any of the provincial courts in this Province, as well in the superior as in the inferior terms thereof, when it may be necessary to order a view by *experts*, in places distant more than five leagues from the usual place of holding such court, it shall and may be lawful for the said court, from time to time, and as need may require, by commission under the seal of the said court and signed by one of the judges thereof, to nominate and empower such justice of the peace, notary or such other person residing near the place where such view is to be made, as the said court may deem fit and proper, to administer to such *experts*, jointly or separately, without the presence of the parties being in anywise necessary, the oath number one hereunto annexed; which oath shall be signed by such *experts*, and certified by the person so named and empowered, agreeable to the form number two hereunto annexed; and in case the said *experts* cannot subscribe the oath, mention shall be made of the reason why such *experts* have not been able to subscribe the same.

Courts empowered to delegate the power of administering oaths to *experts*.

See Tables.

Oaths to be signed by *experts*, and certified.

Courts may delegate the power to administer oaths to witnesses before *experts*.

Duty of the person appointed

II. And be it further enacted, &c., that it shall be also lawful for any such court, by commission as aforesaid, to empower such justice of the peace, notary or other person as aforesaid, to administer to the witnesses who are to be examined before such *experts*, for their information only, as to the quality of the lands or things subject to view or valuation, the oath number three hereunto annexed, and to reduce to writing the testimony and certify the depositions of such witnesses; which depositions, so certified, shall be annexed to the report of the said *experts*; and mention shall be made in the

said depositions, whether the witnesses are related or allied to either and which of the parties, and in what degree of consanguinity or alliance, or whether they are servants of either or any of the parties, or interested in the cause: Provided nevertheless, that nothing in this act contained shall be understood to require, that the deposition of such witnesses shall be reduced to writing, in causes pending in the inferior terms of such court.

III. And be it further enacted, &c., that in all cases where arbiters or arbitrators, residing more than five leagues from the usual place of holding any of the said courts, may have been named in any cause pending and undetermined in any such court, with power to hear witnesses, it shall and may be lawful for such court, by commission as aforesaid, to empower such justice of the peace, notary, or such other person as the said court may deem fit and proper, to administer to the said witnesses separately, without the presence of the parties being in anywise necessary, the oath of the said form number three hereunto annexed; the same to be certified by such commissioner, agreeably to the said form number two hereunto annexed.

IV. And whereas considerable expenses and delays result from causing persons who are elected guardians, tutors, sub-tutors or curators, to come from distant parts of the country to take the oath of office; in order therefore to remedy such inconveniences:—Be it further enacted, &c., that the notaries, and for want of notaries such other fit persons, as may be authorized by any one of the judges of the court of King's bench of Quebec, Montreal and Three-Rivers, and the provincial judge of Gaspé, to receive counsel and advice of relations or friends, touching the appointment of guardians, or tutors, *subrogé tuteurs* or curators to absentees or to vacant estates, and other matters which require such counsel and advice, are hereby authorized after such election, to administer the oath of office to the guardians, tutors, sub-tutors or curators, who shall be named by the said relations or friends, and the same shall set down in writing, to be transmitted to the respective courts from which such power shall have been received.

V. And for the greater ease and benefit of all persons whatsoever, in the taking of affidavits to be made use of and read in His Majesty's courts of King's bench of the several districts in this Province, in all matters and causes whatsoever depending or to be depending in all or any of the said courts, or anywise concerning the proceedings of or in the same:—Be it enacted, &c., that the chief justice of the Province and other the justices of the court of King's bench for the district of Quebec, and, in as far only as it shall respect the inferior district of Gaspé the provincial judge thereof for the time being, and the chief justice and other the justices of the court of King's bench in the district of Montreal for the time being, or any two of them, in the said respective districts, and that in the district of Three-Rivers, the said chief justices and other justices of the said courts of King's bench for the said several districts of Quebec and Montreal and the provincial judge of the district of Three-Rivers for the time being, or any two of them, shall and may, by one or more commissions under the several seals of the said respective courts, from time to time, as need shall require, empower what and as many persons as they shall think fit and necessary, in their said several and respective districts as aforesaid, to take and receive all and every such affidavit and affidavits as any person or persons shall be willing and desirous to make before any of the persons so empowered, in or concerning any cause, matter or thing depending or hereafter to be depending, or anywise concerning any of the proceedings to be had in the said several and respective courts;

ed a commissioner.

Proviso.

Courts may empower commissioners to administer oaths to witnesses before arbitrators.

Courts may delegate the power to receive the advice of relations touching the appointment of guardians, &c.

Chief justices and justices may empower commissioners to receive affidavits concerning causes pending in court.

See Tables.

Affidavit to be filed, and to be as valid as if taken in court.

Penalty for perjury.

which said affidavits, taken as aforesaid, shall be filed in the several and respective offices of the said courts the same do concern, and then be read and made use of in the said courts to all intents and purposes, as other affidavits taken in the said courts now are; and that all and every affidavit and affidavits, taken as aforesaid, shall be of the same force as affidavits taken in the said respective courts now are; and all and every person or persons forswearing him, her or themselves in such affidavit or affidavits, shall incur and be liable unto the same penalties, as if such affidavit or affidavits had been made and taken in open court.

FORM NUMBER ONE—THE OATH TO BE ADMINISTERED TO EXPERTS.

Form No. 1. "I, A. B., of the parish of _____, in the county of _____, habitant, (*if there be two or more persons to be sworn, say, I, A. B., of _____, and I, C. D., of _____*) do make oath and swear, that in the presence of E. F., the plaintiff, and G. H., the defendant, named in an interlocutory sentence pronounced in His Majesty's court of King's bench for the district of _____, bearing date the _____ day of _____, or in their absence, after due notification shall have been given them, to attend at a place to be designated, and on a day and hour to be specifically named to them respectively, I will faithfully proceed as an *expert* to the view and examination required by the said interlocutory sentence; and that I will truly report my opinion in the premises, without favour or partiality towards either of the said parties: So help me God."

FORM NUMBER TWO—THE CERTIFICATE TO BE GIVEN BY THE COMMISSIONER.

Form No. 2. "Sworn before me by virtue of the authority given by the annexed commission, at _____, this _____ day of _____, in the year _____."

FORM NUMBER THREE—THE OATH TO BE ADMINISTERED TO WITNESSES.

Form No. 3. "I, _____, (*insert the name, profession or quality and place of residence of the witness,*) do make oath and swear that I am not related or allied to, or a servant or domestic of E. F., the plaintiff, or G. H., the defendant, and that I am not interested in the event of the cause pending between them, (*or, if witness says he is, state in what degree he declares himself to be related or allied to either and which of the parties, or what situation he holds in the family of either of them,*) and I do also swear that the evidence which I shall give between the said parties before the *experts*, (*or arbiters or arbitrators, as the case may be,*) named in the interlocutory sentence pronounced by His Majesty's court of King's bench, in the said cause, shall be the truth, the whole truth, and nothing but the truth: So help me God."

2. HABEAS CORPUS.

24 Geo. III. An Ordinance for securing the Liberty of the Subject, and for the prevention of Imprisonments out of this Province.
Cap. 1.

Preamble.

WHEREAS it hath graciously pleased the King's most excellent Majesty, in his instructions to His Excellency the Captain General and Governor-in-chief of this Province, to commit to the legislature thereof, the

consideration of making due provision for the security of the personal liberty of his subjects therein, and to suggest that, for that purpose, the legislature could not follow a better example than that which the common law of England hath set, in the provision made for a writ of *habeas corpus*, which is the right of every British subject in that kingdom:—Be it declared and enacted, &c., that from and after the day of the publication of this ordinance, all persons who shall be or stand committed or detained in any prison within this Province, for any criminal or supposed criminal offence, shall of right be entitled to demand, have and obtain from the court of King's bench in this Province, or from the chief justice thereof, or from the commissioners for executing the office of chief justice, respectively, or from any judge or judges of the said court of King's bench, the writ of *habeas corpus*, together with all the benefit and relief resulting therefrom, at all such times, and in as full, ample, perfect and beneficial a manner, and to all intents, uses, ends and purposes, as His Majesty's subjects within the realm of England, who may be or stand committed or detained in any prison within that realm, are there entitled to that writ, and the benefit arising therefrom, by the common and statute laws thereof.

All persons committed to prison for criminal offences entitled to a writ of *habeas corpus*.

See Tables.

II. And for the prevention of delays which may be used by sheriffs, gaolers, and other officers and persons to whose custody any of the King's subjects may be committed or detained, for criminal or supposed criminal matters, in making returns of writs of *habeas corpus* to them directed, it is hereby further declared, ordained and enacted, &c., that whensoever any person or persons shall bring any writ of *habeas corpus*, directed unto any sheriff, gaoler, minister, or other person whatsoever, for any person in his or their custody, and the said writ shall be served upon the said officer, or left at the gaol or prison with any of the under-officers, under-keepers, or deputy of the said officers or keepers, that the said officer or officers, his or their under-officers, under-keepers, deputies or other persons, shall, within three days after the service thereof as aforesaid (unless the commitment aforesaid were for treason or felony plainly and specially expressed in the warrant of commitment)—upon payment or tender of the charges of bringing the said prisoner, to be ascertained by the chief justice, commissioner or commissioners for executing the office of chief justice, or judge or judges of the court that awarded the same, and endorsed upon the said writ, not exceeding three shillings per league, and upon security given, by his own bond, to pay the charges of bringing back the prisoner, if he shall be remanded by the court, chief justice, commissioner or commissioners, judge or judges to which or whom he shall be brought, according to the true intent of this present ordinance, and that he will not make any escape by the way,—make return of such writ, and bring, or cause to be brought, the body of the party so committed or restrained unto or before the chief justice or commissioners for executing the office of chief justice, or judges of the said court of King's bench from whence the said writ shall issue, or unto or before such other person or persons before whom the said writ is made returnable, according to the command thereof, and shall then likewise certify the true causes of his detainer or imprisonment, unless the commitment of the said party be in any place beyond the distance of ten leagues from the place or places where such court or person is or shall be residing,—and if beyond the distance of ten leagues, and not above thirty leagues, then within the space of ten days,—and if beyond the distance of thirty leagues, and not above sixty leagues, then within the space of twenty days,—and if beyond

For preventing delays to returns of such writs.

Mileage.

Return to be made, and in what manner.

the distance of sixty leagues, and not above one hundred leagues, then within the space of forty days,—and if beyond the distance of one hundred leagues, then within the space of three months, if from the first day of March to the twentieth of September, otherwise in the space of eight months, after such delivery and service of the writ as aforesaid, and not longer; but if such payment or tender shall not be made by the person bringing the writ to the sheriff, gaoler, minister, or other person as aforesaid, such sheriff, gaoler, minister, or other person, shall return the writ with the true causes of the imprisonment or detainer, without bringing or causing to be brought the body of the person committed or restrained as it may be thereby commanded, and shall certify on the back thereof, that a default of such payment or tender is the reason and cause that the body of the person is not brought therewith; which shall be deemed a sufficient return.

Reason for not producing the body.

Writs how to be marked and signed.

Writ to be granted on view of copy of warrant, or on affidavit that such copy has been denied.

Causes of commitment to be stated on the return.

Prisoner to be discharged on bail.

III. And to the intent that no sheriff, gaoler, or other officer, may pretend ignorance of the import of any such writ:—Be it enacted, declared and ordained, &c., that all such writs shall be marked in this manner,—*By virtue of an ordinance passed in the twenty-fourth year of the reign of His Majesty King George the Third*,—and shall be signed by the person that awards the same; and if any person or persons shall be or stand committed or detained as aforesaid, for any crime (unless for felony or treason plainly expressed in the warrant of commitment) in the vacation time, and out of term or sessions, it shall and may be lawful to and for the person or persons so committed or detained (other than persons convicted or in execution by legal process) or any one on his or their behalf, to appeal or complain to the chief justice, or any one of the commissioners for executing the office of chief justice, or any judge or judges of the court of Kings bench; and they or any one of them, upon view of the copy or copies of the warrant or warrants of commitment and detainer, or otherwise upon oath made, that such copy or copies were denied to be given by such person or persons in whose custody the prisoner or prisoners is or are detained, are hereby authorized and required, upon request made in writing by such person or persons, or any on his, her, or their behalf, attested and subscribed by two witnesses who were present at the delivery of the same, to award and grant an *habeas corpus* under the seal of the court of King's bench, to be directed to the officer or officers, person or persons, in whose custody the party so committed or detained shall be, returnable *immediatè* before the said chief justice or such commissioner for executing the office of chief justice, or judge of the said court of King's bench; and upon service thereof as aforesaid, the officer or officers, his or their under-officer or under-officers, under-keeper or under-keepers, or their deputy, in whose custody the party is so committed or detained, shall, within the times respectively before limited, bring such prisoner or prisoners before the said chief justice, or such commissioners, or judges or any one of them, before whom the said writ is made returnable, and in case of his absence, before any other of them, with the return of such writ and the true causes of the commitment and detainer; and thereupon, within two days after the party shall be brought before them, the said chief justice, or such commissioner or judge of the court of King's bench, before whom the prisoner shall be brought as aforesaid, shall discharge the said prisoner from his imprisonment, taking his or their recognizance, with one or more surety or sureties, in any sum which shall not be excessive, according to his or their discretion, having regard to the quality of the prisoner and nature of the offence, for his or their appearance in the court of King's

bench, at the next sessions or term, or general gaol delivery, of and for the district where the commitment was, or where the offence was committed, or in such other court where the offence is properly cognizable, as the case shall require, and then shall certify the said writ with the return thereof, and the said recognizance or recognizances into the said court where such appearance is to be made,—unless it shall appear unto the said chief justice, or commissioner or commissioners for executing the office of chief justice, or judge or judges of the said court of King's bench, that the party so committed is detained upon a legal process, order or warrant out of some court that hath jurisdiction of criminal matters, or by some warrant signed and sealed with the hand and seal, either of the chief justice or one of the commissioners for executing the office of chief justice, or of one of the judges of the said court of King's bench, or of some justice or justices, commissioner or commissioners of the peace, for such matters or offences for which, by the law, the prisoner is not bailable.

Exception.

IV. Provided always, and be it enacted, that if any person shall have wilfully neglected, by the space of two whole sessions or terms of the King's bench, established by law for the district where such detention or imprisonment may be, after his imprisonment, to pray a writ of *habeas corpus* for his enlargement, such person so wilfully neglecting shall not have a writ of *habeas corpus* to be granted in vacation time, in pursuance of this ordinance.

In case of wilful neglect to apply within two terms, no writ to be granted in vacation.

V. And it is further enacted, that if any officer or officers, his or their under-officer or under-officers, under-keeper or under-keepers or deputy, or other person, shall neglect or refuse to make the return aforesaid, or to bring the body or bodies of the prisoner or prisoners according to the command of the said writ, within the respective times aforesaid, or, upon demand made by the prisoner or person in his behalf, shall refuse to deliver, or within the space of six hours after demand, shall not deliver to the person so demanding, a true copy of the warrant or warrants of commitment and detainer of such prisoner (which he and they are hereby required to deliver accordingly) all and every the head gaolers and keepers of such prisons, and such other person or persons in whose custody the prisoner shall be detained, shall, for the first offence, forfeit to the prisoner or party grieved, the sum of one hundred pounds, lawful money of Great Britain, and for the second offence, the sum of two hundred pounds, like lawful money of Great Britain, and shall be and is hereby made incapable to hold or execute his said office : The said penalties to be recovered by the prisoner or party grieved, his executors or administrators, against such offender, his executors or administrators, by any action of debt, suit, bill, plaint or information in the courts of common pleas, or any other court of record, having original jurisdiction within this Province, wherein no privilege, protection, injunction or stay of prosecution by *non vult ulterius prosequi*, or otherwise, shall be admitted or allowed, or any imparlance or continuances for a longer period than three months; and any recovery or judgment at the suit of any party grieved shall be a sufficient conviction for the first offence; and any after recovery or judgment at the suit of a party grieved, for any offence after the first judgment, shall be a sufficient conviction to bring the officers or person within the said penalty for the second offence.

Penalty on officers refusing to make a return, or to produce the body, or to give a copy of the commitment.

Penalty how recovered.

VI. Provided always, and be it ordained, &c., that if any person or persons, subjects of His Majesty, shall be committed to any prison, or in custody

No person to be removed

Reason for not
producing the
body.

the distance of sixty leagues, and not above one hundred leagues, then within the space of forty days,—and if beyond the distance of one hundred leagues, then within the space of three months, if from the first day of March to the twentieth of September, otherwise in the space of eight months, after such delivery and service of the writ as aforesaid, and not longer ; but if such payment or tender shall not be made by the person bringing the writ to the sheriff, gaoler, minister, or other person as aforesaid, such sheriff, gaoler, minister, or other person, shall return the writ with the true causes of the imprisonment or detainer, without bringing or causing to be brought the body of the person committed or restrained as it may be thereby commanded, and shall certify on the back thereof, that a default of such payment or tender is the reason and cause that the body of the person is not brought therewith ; which shall be deemed a sufficient return.

Writs how to
be marked and
signed.

III. And to the intent that no sheriff, gaoler, or other officer, may pretend ignorance of the import of any such writ :—Be it enacted, declared and ordained, &c., that all such writs shall be marked in this manner,—*By virtue of an ordinance passed in the twenty-fourth year of the reign of His Majesty King George the Third*,—and shall be signed by the person that awards the same ; and if any person or persons shall be or stand committed or detained as aforesaid, for any crime (unless for felony or treason plainly expressed in the warrant of commitment) in the vacation time, and out of term or sessions, it shall and may be lawful to and for the person or persons so committed or detained (other than persons convicted or in execution by legal process) or any one on his or their behalf, to appeal or complain to the chief justice, or any one of the commissioners for executing the office of chief justice, or any judge or judges of the court of Kings bench ; and they or any one of them, upon view of the copy or copies of the warrant or warrants of commitment and detainer, or otherwise upon oath made, that such copy or copies were denied to be given by such person or persons in whose custody the prisoner or prisoners is or are detained, are hereby authorized and required, upon request made in writing by such person or persons, or any on his, her, or their behalf, attested and subscribed by two witnesses who were present at the delivery of the same, to award and grant an *habeas corpus* under the seal of the court of King's bench, to be directed to the officer or officers, person or persons, in whose custody the party so committed or detained shall be, returnable *immediatè* before the said chief justice or such commissioner for executing the office of chief justice, or judge of the said court of King's bench ; and upon service thereof as aforesaid, the officer or officers, his or their under-officer or under-officers, under-keeper or under-keepers, or their deputy, in whose custody the party is so committed or detained, shall, within the times respectively before limited, bring such prisoner or prisoners before the said chief justice, or such commissioners, or judges or any one of them, before whom the said writ is made returnable, and in case of his absence, before any other of them, with the return of such writ and the true causes of the commitment and detainer ; and thereupon, within two days after the party shall be brought before them, the said chief justice, or such commissioner or judge of the court of King's bench, before whom the prisoner shall be brought as aforesaid, shall discharge the said prisoner from his imprisonment, taking his or their recognizance, with one or more surety or sureties, in any sum which shall not be excessive, according to his or their discretion, having regard to the quality of the prisoner and nature of the offence, for his or their appearance in the court of King's

Writ to be
granted on
view of copy
of warrant, or
on affidavit
that such copy
has been denied.

Causes of commitment to be
stated on the
return.

Prisoner to be
discharged on
bail.

bench, at the next sessions or term, or general gaol delivery, of and for the district where the commitment was, or where the offence was committed, or in such other court where the offence is properly cognizable, as the case shall require, and then shall certify the said writ with the return thereof, and the said recognizance or recognizances into the said court where such appearance is to be made,—unless it shall appear unto the said chief justice, or commissioner or commissioners for executing the office of chief justice, or judge or judges of the said court of King's bench, that the party so committed is detained upon a legal process, order or warrant out of some court that hath jurisdiction of criminal matters, or by some warrant signed and sealed with the hand and seal, either of the chief justice or one of the commissioners for executing the office of chief justice, or of one of the judges of the said court of King's bench, or of some justice or justices, commissioner or commissioners of the peace, for such matters or offences for which, by the law, the prisoner is not bailable.

Exception.

IV. Provided always, and be it enacted, that if any person shall have wilfully neglected, by the space of two whole sessions or terms of the King's bench, established by law for the district where such detention or imprisonment may be, after his imprisonment, to pray a writ of *habeas corpus* for his enlargement, such person so wilfully neglecting shall not have a writ of *habeas corpus* to be granted in vacation time, in pursuance of this ordinance.

In case of wilful neglect to apply within two terms, no writ to be granted in vacation.

V. And it is further enacted, that if any officer or officers, his or their under-officer or under-officers, under-keeper or under-keepers or deputy, or other person, shall neglect or refuse to make the return aforesaid, or to bring the body or bodies of the prisoner or prisoners according to the command of the said writ, within the respective times aforesaid, or, upon demand made by the prisoner or person in his behalf, shall refuse to deliver, or within the space of six hours after demand, shall not deliver to the person so demanding, a true copy of the warrant or warrants of commitment and detainer of such prisoner (which he and they are hereby required to deliver accordingly) all and every the head gaolers and keepers of such prisons, and such other person or persons in whose custody the prisoner shall be detained, shall, for the first offence, forfeit to the prisoner or party grieved, the sum of one hundred pounds, lawful money of Great Britain, and for the second offence, the sum of two hundred pounds, like lawful money of Great Britain, and shall be and is hereby made incapable to hold or execute his said office : The said penalties to be recovered by the prisoner or party grieved, his executors or administrators, against such offender, his executors or administrators, by any action of debt, suit, bill, plaint or information in the courts of common pleas, or any other court of record, having original jurisdiction within this Province, wherein no privilege, protection, injunction or stay of prosecution by *non vult ulterius prosequi*, or otherwise, shall be admitted or allowed, or any imparlance or continuances for a longer period than three months ; and any recovery or judgment at the suit of any party grieved shall be a sufficient conviction for the first offence ; and any after recovery or judgment at the suit of a party grieved, for any offence after the first judgment, shall be a sufficient conviction to bring the officers or person within the said penalty for the second offence.

Penalty on officers refusing to make a return, or to produce the body, or to give a copy of the commitment.

Penalty how recovered.

VI. Provided always, and be it ordained, &c., that if any person or persons, subjects of His Majesty, shall be committed to any prison, or in custody

No person to be removed

from prison to
prison but by
habeas corpus.

of any officer or officers whomsoever, for any criminal or supposed criminal matter, that the said person shall not be removed from the said prison and custody into the custody of any other officer or officers, unless it be by *habeas corpus* or some other legal writ,—or where the prisoner is delivered to the constable, bailiff, or other inferior officer to carry such prisoner to some common gaol,—or where any person is sent by order of any judge of a court of criminal jurisdiction, commissioner or justice of the peace to any common work-house or house of correction,—or where the prisoner is removed from some one prison or place to another within the same district, in order to his or her trial or discharge in due course of law,—or in case of sudden fire or infection, or other necessity: And if any person or persons shall after such commitment aforesaid, make out and sign or countersign any warrant or warrants for such removal aforesaid, contrary to this ordinance, as well he that makes or signs or countersigns such warrant or warrants as the officer or officers that obey or execute the same, shall suffer and incur the pains and forfeitures in this ordinance before mentioned, both for the first and second offence respectively, to be recovered by the party grieved in manner aforesaid.

To prevent
vexation by re-
iterated com-
mitments.

VII. And for the preventing unjust vexation by reiterated commitments for the same offence, it is further enacted, that no person or persons who shall be delivered or set at large upon any *habeas corpus*, shall, at any time hereafter, be again imprisoned or committed or the same offence by any person or persons whatsoever, other than by the legal process and order of such court wherein he or they shall be bound by recognizance to appear, or other court having jurisdiction of the cause: And if any person or persons shall, knowingly, contrary to this ordinance, re-commit or imprison, or knowingly procure or cause to be re-committed or imprisoned, for the same offence or pretended offence, any person or persons delivered or set at large as aforesaid, or be knowingly aiding or assisting therein, then he or they shall forfeit to the prisoner or party grieved, the sum of five hundred pounds, lawful money of Great Britain, to be recovered as aforesaid; any colourable pretence or variation in the warrant or warrants of commitment notwithstanding.

£500 penalty.

Persons com-
mitted for trea-
son or felony,
and requesting
a trial in the
first week of
the sessions or
term, shall, if
not indicted in
the ensuing
term, be set at
liberty on bail.

VIII. It is hereby further enacted, that if any person or persons shall be committed for high treason or felony, plainly and specially expressed in the warrant of commitment, and upon his prayer or petition in open court, the first week of the sessions or term of the court of King's bench and of oyer and terminer or of general gaol delivery for the district, to be brought to his trial, shall not be indicted some time in the next sessions or term of the court of King's bench, oyer and terminer or general gaol delivery, after such commitment, it shall and may be lawful to and for the chief justice or commissioners for executing the office of chief justice, or judges of the said court of King's bench, and they are hereby required, upon motion made to them in open court the last day of the sessions or term of the court of King's bench and of oyer and terminer or general gaol delivery, either by the prisoner or any one in his behalf, to set at liberty the prisoner upon bail; unless it appears to the chief justice, or commissioners for executing the office of chief justice, or judges of the said court of King's bench, upon oath made, that the witnesses for the King could not be produced the same sessions or term or general gaol delivery: And if any person or persons committed as aforesaid, upon his or their prayer or petition in open court the first week of the sessions or term of the court of King's bench and of oyer

and terminer and general gaol delivery, held in and for the district where such prisoner or prisoners may be committed, to be brought to his or their trial, shall not be indicted and tried the second sessions or term of the court of King's bench and oyer and terminer and general gaol delivery after his commitment, or upon his trial shall be acquitted, he shall be discharged from his imprisonment.

IX. Provided always, that nothing in this ordinance shall extend to dis- Proviso.
charge out of prison, any person charged in debt or other action, or with process in any civil cause, but that after he shall be discharged from his imprisonment for such criminal offence, he shall be kept in custody according to the law for such other suit.

X. Provided also, and it is hereby further enacted, that it shall and may Penalty
be lawful to and for any prisoner or prisoners as aforesaid, to move and against the
obtain his or their *habeas corpus* out of the court of King's bench: And if chief justice or
the chief justice or commissioners for executing the office of chief justice or other judge for
judges of the said court of King's bench in the vacation time, upon view of refusing habeas
the copy or copies of the warrant or warrants of commitment or detainer, or corpus, £500.
upon oath made that such copy or copies were denied as aforesaid, shall deny any *habeas corpus* by this ordinance required to be granted (being moved for as aforesaid) they shall severally forfeit to the prisoner or party grieved, the sum of five hundred pounds, lawful money of Great Britain, to be recovered in manner aforesaid.

XI. And for preventing illegal imprisonments in prisons without this No inhabitant
Province, or beyond the seas:—Be it further enacted and declared, &c., of this Province to be sent
that no subject of His Majesty, His Heirs or Successors, that now is or a prisoner to
hereafter shall be an inhabitant or resident of this Province of Quebec, shall any other Province, state or
or may be sent prisoner into any province, or into any state or place without place beyond
this Province, or into any parts, garrisons, islands or places beyond the the seas.
seas, which are, or at any time hereafter shall be, within or without the dominions of His Majesty, His Heirs or Successors; and that every such imprisonment or transportation is hereby enacted and declared to be illegal: And if any of the said subjects shall hereafter be so imprisoned, every such person and persons so imprisoned shall and may, for every such imprisonment, maintain, by virtue of this ordinance, an action or actions of false imprisonment against the person or persons by whom he or she shall be so committed, detained, imprisoned, sent prisoner or transported, contrary to the true meaning of this ordinance, and against all or any person or persons that shall frame, contrive, write, seal or countersign any warrant or writing for such commitment detainer, imprisonment or transportation, or shall be advising, aiding or assisting in the same, or any of them; and the plaintiff in every such action shall have judgment to recover his treble costs, besides damages, which damages so to be given shall not be less than five hundred pounds, lawful money of Great Britain, in which action no delay, stay or stop of proceeding by rule, order or command, nor any injunction, protection or privilege whatsoever, nor any more than one imparlance or continuance (according to the practice of the court) shall be allowed, excepting such rule of the court wherein the action shall depend, made in open court, as shall be thought in justice necessary, for special cause to be expressed in the said rule. Damages not less than £500 may be recovered by the party aggrieved in this respect.

XII. Provided always, that nothing in this ordinance shall extend to Proviso.
give benefit to any person who shall, by contract in writing, agree with any

merchant or owner of any plantation or other person whatsoever, to be carried to any province or to parts beyond the seas, and receive earnest upon such agreement, although that afterwards such person shall renounce such contract.

Convicts may be transported. XIII. And provided always and be it enacted, that if any person or persons lawfully convicted of any felony, shall, in open court, pray to be transported beyond the seas or out of the Province, and the court shall think fit to leave him or them in prison for that purpose, such person or persons may be transported into any parts beyond the seas; this ordinance or any thing herein contained to the contrary notwithstanding.

But see Tables.

Persons having committed a capital offence in any other part of the King's dominions.

XIV. Provided also, that if any person or persons, at any time resident within this Province, shall have committed any capital offence in Great-Britain, Ireland or any province, island or plantation of the King, His Heirs or Successors, where he or she ought to be tried for such offence, such person or persons may be sent to such place, there to receive such trial, in such manner as the same might have been used by the common laws of England before the making of this ordinance; any thing herein contained to the contrary notwithstanding.

To prevent collusive evasion of trial.

XV. And to the intent that no person may avoid his trial at the sessions or term of the court of King's bench, oyer and terminer or general gaol delivery, by procuring his removal before the sessions or term of the court of King's Bench, oyer and terminer or general gaol delivery, held in and for the district where he may be committed, at such time as he cannot be brought back to receive his trial there; it is further enacted, that after the sessions or term of the court of King's bench, oyer and terminer or general gaol delivery, proclaimed or advertised for the district where the prisoner is detained, no person shall be removed from the common gaol of the district upon any *habeas corpus* granted in pursuance of this ordinance, but upon any such *habeas corpus*, shall be brought before the chief justice, or commissioners for executing the office of the chief justice, or judges of the said court of King's bench, in open court, who is or are thereupon to do what to justice shall appertain.

Proviso.

XVI. Provided nevertheless, that after the sessions are ended, any person or persons detained in any common gaol may have his, her, or their *habeas corpus* according to the direction and intention of this ordinance.

Preamble.

But see Tables.

XVII. And because many times, persons charged with petit-treason or felony, or as accessories thereunto, are committed upon suspicion only, whereupon they are bailable or not, according as the circumstances making out that suspicion are more or less weighty, which are best known to the justices of the peace who may have committed such persons and have the examinations before them, or to other justices of the peace in the district where such prisoners may be committed:—Be it therefore ordained and enacted, that where any person shall appear to be committed by any judge, commissioner or justice of the peace, and charged as accessory before the fact to any petit-treason or felony, or upon suspicion thereof, or with suspicion of petit-treason or felony, which petit-treason or felony shall be plainly and specially expressed in the warrant of commitment, that such person shall not be removed or bailed by virtue of this ordinance in any other manner than by the common law of England they may be.

Persons charged as accessories before the fact to felony, not bailable otherwise than by law.

No suit for offence, against

XVIII. Provided also and it is enacted, that no person or persons shall be sued, impleaded, molested or troubled for any offence against this ordi-

nance, unless the party offending be sued or impleaded for the same within this act unless
two years, at the most, after such time wherein the offence shall be com- within two
mitted, in case the party grieved shall not be then in prison, and if he shall years after the
be in prison, then within the space of two years after the decease of the offence.
person imprisoned, or his or their delivery out of prison which shall first
happen.

XIX. And be it also ordained, &c., that if any information, suit or Pleading, how
action, shall be brought or exhibited against any person or persons for any regulated,
offence committed or to be committed against the form of this law, it shall
be lawful for such defendants to plead the general issue, that they are not
guilty, or that they owe nothing, or to plead specially, according as may
be the course and practice of the Court where such suit may be; and in
case it be upon the said plea of not guilty, or that he owes nothing, then
to give such special matter in evidence, which, if it had been pleaded more
specially, had been good and sufficient matter of law to have discharged
the said defendant or defendants against the said information, suit or ac-
tion; and the said matter so given in evidence under either of the said
general pleas, shall be then and there as available to him or them to all
intent and purposes, as if he or they had sufficiently pleaded, set forth or
alleged the same matters in bar or discharge of such information, suit or
action.

An Act to secure the liberty of the Subject, by extending the 52 Geo. III.
powers of His Majesty's Courts of Law, in this Province, as Cap. 8.
to Writs of *Habeas Corpus ad Subjiciendum*, and as to the
means of enforcing obedience to such Writs.

WHEREAS the writ of *habeas corpus ad subjiciendum* hath been Preamble.
found by experience to be the most expeditious and effectual method
of restoring any person to his liberty, who hath been unjustly deprived
thereof; and whereas extending the remedy of such writ, enforcing obedi-
ence thereunto, preventing delays in the execution thereof, and ascertaining
the proceedings thereupon, will be greatly beneficial to the subject:—Be it Writ of *habeas*
therefore declared and enacted, &c., that when any person shall be confined corpus allowed
or restrained of his or her liberty, otherwise than for some criminal or sup- in vacation
posed criminal matter, it shall and may be lawful for the chief justice of time.
the Province, and for the chief justice of the court of King's bench for the See Tables.
district of Montreal, and for any one of His Majesty's justices of the court
of King's bench for the district of Quebec, or of the court of King's bench
for the district of Montreal, or of the court of King's bench for the district
of Three-Rivers, and for the judge of the provincial court of Gaspé, with-
in the limits of their respective jurisdictions, and they are hereby required,
upon complaint made to them by or on the behalf of the person so confined
or restrained, if it shall appear by affidavit (or affirmation in cases where
by law an affirmation is allowed,) that there is a probable and reasonable
ground for such complaint, to award, in vacation time, a writ of *habeas*
corpus ad subjiciendum, under the seal of such court whereof he shall
then be one of the judges or the judge, to be directed to the person or per-
sons in whose custody or power the party so confined or restrained shall
be, returnable *immediatè*, before the judge so awarding the same, or before
any other judge of the court under the seal of which the said writ issued.

II. And be it further enacted, &c., that if the person or persons to whom Persons
any writ of *habeas corpus* shall be directed in pursuance of this act, upon can't copy to an

paying obedience to such writ.

Proviso.

Proviso.

service of such writ, either by the actual delivery thereof to him, her or them, or by leaving the same at the place where the party shall be confined or restrained, with any servant or agent of the person so confining or restraining, shall wilfully neglect or refuse to make a return or pay obedience thereto, he, she or they shall be deemed guilty of a contempt of the court under the seal whereof such writ shall issue; and it shall and may be lawful to and for the chief justice, justice or judge aforesaid, before whom such writ shall be returnable, upon proof made of such service, to award, in the vacation time, process of contempt under the seal of such court, against the person or persons guilty of such contempt, returnable before himself in the vacation time, who shall proceed thereon as to law and justice shall appertain: Provided, that if such writ of *habeas corpus* shall be awarded so late in the vacation by any one of the chief justices, justices or judge, that in his opinion obedience thereto cannot be conveniently paid during such vacation, the same shall and may, at his discretion, be made returnable in the court under the seal whereof such writ shall issue, at a day certain in the next term, and the said court shall and may proceed thereupon, and award process of contempt in case of disobedience thereto, in like manner as if such writ of *habeas corpus* had been originally awarded by such court: Provided also, that if such writ of *habeas corpus* shall be awarded by either of the said courts of King's bench or by the provincial court of Gaspé, in term, but so late that in the judgment of the court so awarding such writ, obedience thereto cannot be conveniently paid during such term, the same shall and may, at the discretion of the court so awarding such writ, be made returnable at a day certain in the then next vacation, before any judge of the court so awarding such writ, who shall and may proceed thereupon in such manner as by this act is directed concerning writs of *habeas corpus* issuing in and made returnable during vacation.

Chief justice, &c. to examine into the truth of the facts set forth in the return and into the cause of confinement and restraint.

III. And be it further enacted, &c., that in all cases provided for by this act, although the return to any writ of *habeas corpus* shall be good and sufficient in law, the chief justice, justice or judge aforesaid, before whom such writ shall be returnable, shall as soon as conveniently may be, proceed to examine into the truth of the facts set forth in such return and into the cause of such confinement or restraint, by affidavit, (or by affirmation, in cases where an affirmation is allowed by law,) and shall do therein as to justice shall appertain; and if such writ shall be returned before any one of the said chief justices, justices or judge, and it shall appear doubtful to him, on such examination, whether the material facts set forth in the said return, or any of them, be true or not, in such case it shall and may be lawful for such chief justice, justice or judge to let to bail the person or persons confined or restrained, upon his, her or their entering into recognizance with one or more sureties, or in case of infancy or coverture, upon security by recognizance in a reasonable sum, to appear in the court under the seal whereof such writ shall have issued, upon a day certain in the term then next following, and so from day to day, as such court shall require, and to abide such order as such court shall make in and concerning the premises; and such chief justice, justice or judge shall transmit into the court under the seal whereof such writ shall have issued, the said writ of *habeas corpus* and return, together with the said recognizance, affidavits and affirmations; and such court thereupon shall proceed, order and determine touching the discharging or bailing or remanding such person or persons so confined or

restrained, as to justice shall appertain, either in a summary way by affidavit or affirmation, or by directing one or more issues for the trial of the facts set forth in such return or any of them, whereupon such proceedings shall be had as in cases of issues directed by His Majesty's court of King's bench in England.

IV. And be it further enacted, &c., that the like proceeding shall be had in the aforesaid courts of this Province, and in each of them, for controverting the truth of the return to all writs of *habeas corpus* awarded for or on behalf of any person confined or restrained of his or her liberty, otherwise than for some criminal or supposed criminal matter, by affidavit, affirmation or otherwise, although such writ shall be awarded by the court or be returnable therein.

The like proceedings for controverting the truth of the return to writs of *habeas corpus*.

V. And be it further enacted, &c., that it shall and may be lawful for the court or chief justice, justice or judge proceeding on any writ of *habeas corpus ad subjiciendum* awarded in cases of confinement not for criminal or supposed criminal matter, to make such order in regard to the payment of the charges and expenses of bringing up the party so confined or restrained, and for carrying him or her back to his or her place of confinement or restraint, in case of remanding, as to such court, chief justice, justice or judge shall, upon examination thereof, seem meet, and for non-payment thereof to award process of contempt, whereupon such proceedings shall be had as in other cases of contempt for non-payment of costs.

Court or chief justice, &c. may make order for the charges of bringing up the party confined.

VI. And be it further enacted and provided, &c., that nothing in this act contained, shall extend to discharge out of prison, any person charged in debt or other action, or with process in any civil suit.

Proviso, as to persons charged in debt, &c.

VII. And be it further enacted, &c., that the several provisions made by this act, touching the making writs of *habeas corpus* issuing in time of vacation returnable in the aforesaid several courts of King's bench of this Province, or for making such writs awarded in term time returnable in vacation, as the case may respectively happen, and also for awarding process of contempt in time of vacation against the person or persons neglecting or refusing to make return of such writs or to pay obedience thereto, shall extend to all writs of *habeas corpus* awarded in pursuance of a certain act passed in the thirty-first year of King Charles the Second, intituled, *An act for the better securing the liberty of the subject and for prevention of imprisonment beyond seas*, and of a certain ordinance of the late Province of Quebec, made and passed in the twenty-fourth year of the reign of King George the Third, intituled, *An ordinance for securing the liberty of the subject and for the prevention of imprisonments out of this Province*, or of either of them, in as ample and beneficial a manner as if such writs and the said cases arising thereon, had been hereinbefore specially named and provided for.

Provisions of this act to apply to writs issued under the 31st Charles II.

Or ordinance 24 Geo. 3. Cap. 1.

An Act to repeal and amend certain parts of an act passed in the thirty-fourth year of His late Majesty's reign, intituled, *An act for the division of the Province of Lower Canada, for amending the judicature thereof, and for repealing certain laws therein mentioned.*

1 Geo. IV. Cap. 8.

WHEREAS it is expedient that the power of granting, issuing, and determining upon writs of *habeas corpus*, in vacation time and out

Preamble.

of the term, in pursuance of an ordinance passed by the Governor and legislative council of the late Province of Quebec, on the twenty-ninth day of April, in the twenty-fourth year of His late Majesty's reign, intituled, *An ordinance for securing the liberty of the subject, and for the prevention of imprisonments out of this Province*, should be vested in the puisné justices of the courts of King's bench for the districts of Quebec and Montreal, and in the provincial judge for the district of Three-Rivers, as well as in the chief justices of the said courts respectively :—Be it therefore enacted, &c., that so much of the thirty-seventh section of an act

Certain parts of 37th section of act 31 Geo. 3. Cap. 6, repealed.

passed in the thirty-fourth year of His late Majesty's reign, intituled, *An act for the division of the Province of Lower Canada, for amending the judicature thereof, and for repealing certain laws therein mentioned*, as requires that any writ of *habeas corpus*, returnable in vacation time, shall be made returnable at Quebec before the chief justice of this Province, or at Montreal before the chief justice of the court of King's

Writs of *habeas corpus* to be returnable before the chief justices or puisné justices of the districts of Quebec and Montreal.

See Tables.

* Sic.

Penalty for denial of such writs.

Bench at Montreal, shall be and the same is hereby repealed ; and that from and after the passing of this act, when any writ of *habeas corpus* shall be made returnable in vacation time, and* such writ shall be made returnable in the district of Quebec before the chief justice of this Province, or any one of the puisné justices of the court of King's bench for the said district of Quebec, and in the district of Montreal before the chief justice of the court of King's bench for the said district of Montreal, or any one of the puisné justices of the said court of King's bench for the district of Montreal, with full power to the said chief justices and puisné justices, jointly or severally, to proceed to hear the parties and determine on such writ of *habeas corpus*, under and subject to the penalty for the denial of the said writ provided in respect of the chief justice, or commissioners for executing the office of chief justice, or judges of the court of King's bench, in and by the said ordinance, and in the manner therein mentioned ; any law, usage or custom to the contrary notwithstanding.

The powers that were vested in the chief justices in respect to writs of *habeas corpus* in the district of Three-Rivers, may be exercised by the provincial judge of that district.

See Tables.

II. And be it further enacted &c., that from and after the passing of this act, in the case and cases of any person or persons imprisoned, committed, or detained in the district of Three-Rivers, for criminal or supposed criminal matters, the powers and authority granted by the said thirty-seventh section of the said act passed in the thirty-fourth year of His late Majesty's reign, to the chief justice of the Province and to the chief justice of the court of King's bench for the district of Montreal, respectively, in vacation time, in respect of writs of *habeas corpus* directed and running into the district of Three-Rivers, shall and may not only be exercised by the said chief justices, respectively, but shall also be vested in and exercised by the puisné justices of the said courts of King's bench, and by the said provincial judge of the said district of Three-Rivers, jointly or severally ; and that in all such case and cases, as well the said puisné justices and provincial judges as the said chief justices, shall and may, in vacation time, exercise all the powers and authorities granted by the said ordinance to the chief justice of the court of King's bench for the late Province of Quebec, or the commissioners for executing the office of chief justice, or to any judge or judges of the said court of King's bench, in respect of the writ of *habeas corpus*, under and subject to the penalty provided in respect of the said chief justice, or commissioners for executing the office of chief justice, or judges of the court of King's Bench in and by the said ordinance ; any law, usage or custom to the contrary notwithstanding.

3. THREE-RIVERS.

An Act to repeal certain parts of an Act passed in the thirty-fourth year of His late Majesty's Reign, intituled, *An Act for the division of the Province of Lower Canada, for amending the Judicature thereof, and for repealing certain Laws therein mentioned*, and to ascertain the Boundaries of the District of Three-Rivers. 10 & 11 Geo. IV. Cap. 17.

WHEREAS much inconvenience has arisen from the situation of the present lines of division by which the district of Three-Rivers is separated from those of Quebec and Montreal, and it is necessary that they be changed :—Be it therefore enacted, &c., that so much of an act passed in the thirty-fourth year of the reign of His late Majesty, intituled, *An act for the division of the Province of Lower Canada, for amending the judicature thereof, and for repealing certain laws therein mentioned*, as refers to the course and situation of the lines of division between the said district of Three-Rivers and those of Quebec and Montreal, respectively, be and the same is hereby repealed. Preamble.
Part of the act 34 Geo. 3. Cap. 6, repealed.

II. And be it further enacted, &c., that the said district of Three-Rivers shall consist of the counties of Yamaska, Nicolet, Drummond and Sherbrooke, on the south side of the river Saint Lawrence, and of the counties of Saint Maurice and Champlain, on the north side of the said river Saint Lawrence and the lines separating the said counties from the other counties of the Province, as established by an act passed in the ninth year of His Majesty's reign, intituled, *An act to make a new and more convenient subdivision of the Province into counties, for the purpose of effecting a more equal representation thereof in the assembly than heretofore*, shall be the lines of division between the said district and those of Quebec and Montreal, respectively. Counties of which the district of Three-Rivers shall consist.
But see Tables.
9 Geo. 4. c. 73.

An act to repeal in part and to amend an act passed in the thirty-fourth year of the Reign of His late Majesty, intituled, *An act for the division of the Province of Lower Canada, for amending the Judicature thereof, and for repealing certain Laws therein mentioned*, in certain matters relating to the District of Three-Rivers. 10 & 11 Geo. IV. Cap. 22.

MOST GRACIOUS SOVEREIGN,

WHEREAS in and by an act of the provincial parliament of Lower Canada, made and passed in the thirty-fourth year of the reign of our late Sovereign Lord King George the Third, intituled, *An act for the division of the Province of Lower Canada, for amending the judicature thereof, and for repealing certain laws therein mentioned*, it is among other things enacted, "that there shall be held at the town of Three-Rivers, &c.;" and whereas, in and by the said act it is also enacted, "that there shall be appointed a provincial judge for the district of Three-Rivers, &c.;" and whereas His Excellency, Sir James Kempt, Administrator of the government of this Province, by his message sent to both houses of this provincial parliament, hath recommended that the provincial judge of the said district of Three-Rivers be put on the same footing in Preamble.
Act 34, Geo. 3. Cap. 6. sec. 11. from these words "Three-Rivers," to the end of the sec. recited.
Same act, sec. 12 recited.

shall think necessary or proper for the circumstances of this Province, nor to derogate from any other right or prerogative of the Crown whatsoever.

10 & 11 Geo.
IV. Cap. 7.

An Act to continue further, for a limited time, a certain Act passed in the third year of His Majesty's reign, intituled, *An Act to erect certain townships therein mentioned, into an Inferior District to be called the Inferior District of Saint Francis, and to establish Courts of Judicature therein*, and to make further provision for the due administration of Justice in the said Inferior District.

Preamble.

3 Geo. 4. C.
17, continued.

WHEREAS it is expedient further to continue for a limited time, a certain act passed in the third year of His Majesty's reign, intituled, *An act to erect certain townships therein mentioned into an inferior district to be called the inferior district of Saint Francis, and to establish courts of judicature therein*:—Be it therefore enacted, &c., that the said act, &c., (3 Geo. 4. cap. 17. *Mere continuing clause. Effete*).

The court of
King's bench
to be held at
Sherbrooke
and by whom.

But see Tables.

II. And whereas the inhabitants of the said inferior district are, by reason of its remoteness from the seats of superior jurisdiction at Montreal and Three-Rivers, exposed to great inconvenience and loss of time, and incur much expense in attending the courts of King's bench held at Montreal and Three-Rivers, in which courts all causes arising in the said inferior district, and exceeding the jurisdiction of the courts established therein, have heretofore been tried:—Be it therefore enacted, &c., that there shall be held at Sherbrooke, in the said inferior district of Saint Francis, by one of the justices of the court of King's Bench for the district of Quebec or for the district of Montreal, the provincial or resident judge for the district of Three-Rivers, and the provincial judge of the said inferior district of Saint Francis, a court of King's bench, to sit in two terms every year, that is to say, from the twenty-sixth day of February to the eighth day of the month of March, both days inclusive, and from the twenty-fifth day of August to the fourth day of September, both days inclusive, (Sundays and Holidays excepted); and during each of the said terms the said justice of the court of King's bench, the said provincial or resident judge of the district of Three-Rivers, and the said judge of the inferior district of Saint Francis, or any two of them, of whom the said judge of the inferior district of Saint Francis shall not be one, shall have original jurisdiction and shall take cognizance of, hear, try and determine all civil suits or actions and where the King is a party, in the said inferior district—those purely of admiralty jurisdiction and suits or actions wherein the value of the matter in dispute shall not exceed the sum of ten pounds, sterling, excepted—unless the said suits or actions wherein the amount in dispute shall not exceed ten pounds, sterling, shall relate to any fee of office, duty, rent, revenue, or any sum or sums of money payable to His Majesty, titles to lands or tenements, annual rents or such like matters or things where the rights in future may be bound; and every juridical day in each of the said terms shall be a return day for all writs and process returnable before the said court; and the said court of King's bench to be held as aforesaid in the said inferior district, and the justice of the court of King's bench, the provincial or resident judge of Three-Rivers, and the said judge of the said inferior district, composing the said court, or any of them,

make temporary provision for the administration of justice in certain of the Eastern Townships; and whereas from the great extent of the districts of Montreal and Three-Rivers, and the increased population of late years in those parts of the said districts included in the counties of Buckinghamshire and Richelieu, it hath become an object of serious inconvenience to the inhabitants residing in the townships included within the said counties, to attend the courts of justice :—Be it therefore enacted, &c., that from and after the passing of this act, such parts and so much of the townships of Stanstead, Barnston, Barford, Hatley, Compton, Orford, Ascot, Brompton, and of the seventeenth, eighteenth, nineteenth, twentieth, twenty-first and twenty-second ranges of Bolton, as are comprised within the limits of the district of Montreal, together with the remaining parts of the townships of Barnston, Barford, Hatley, Compton, Orford, Ascot and Brompton, in the district of Three-Rivers, and the townships of Hereford, Drayton, Emberton, Auckland, Clifton, Eaton, Newport, Ditton, Chesham, Clinton, Marston, Hampden, Stratford, Lingwick, Bury, Dudswell, Westbury, Sale, Melbourne, Durham, Kingsey, Shipton, Windsor, Watton, Weedon, Garth, Wolfstown, Tingwick, Chester, and Ham, shall be formed into, constitute and compose, for the purposes hereinafter mentioned, an inferior district, which inferior district so composed, constituted and formed, shall be called the inferior district of Saint Francis.

Certain townships in the districts of Montreal and Three-Rivers formed into the inferior district of Saint Francis.

But see Tables.

II. And be it further enacted, &c., that there shall be appointed a judge in and for the said inferior district of Saint Francis, who shall hold a provincial court for the said inferior district of Saint Francis, as hereinafter mentioned, which shall have cognizance of, and have power to hear, try and determine, during the terms and in the manner hereinafter mentioned, in the first instance, exclusively of every court, judge or tribunal whatsoever, every suit or action purely personal, wherein the amount claimed may not exceed twenty pounds, sterling; any law or statute heretofore in force in this Province to the contrary notwithstanding.

Establishment of a provincial court in the inferior district of Saint Francis.

But see Tables.

III. And it is further enacted, &c., that there shall be appointed a clerk to the said court for the said inferior district, who shall be entitled to receive for his services such fees as by law appertain to his situation, and no others.

Appointment of a clerk.
See Tables.

XIII. And be it further enacted, &c., that there shall be held at Sherbrooke aforesaid, for the said inferior district of Saint Francis, twice in every year, a general session of the peace, by the justices of the peace, or any three of them, whereof one shall be of the quorum, who shall hear and determine all matters relating to the conservation of the peace, and whatsoever is or may be by them cognizable, according to the criminal laws in force in this Province; and the terms of the said court of general session of the peace shall be as follows, that is to say, from the first to the seventh day of February, and from the first to the seventh day of October, both days included, Sundays excepted: Provided also, that no term of general session of the peace shall be held, until a legal gaol be established at Sherbrooke aforesaid.

General sessions of the peace to be held for the said inferior district.

Terms for holding the same.

But see Tables.

XVI. Provided always, and it is declared and enacted, &c., that nothing herein contained shall be construed, in any manner, to derogate from the rights of the Crown, to erect, constitute and appoint courts of civil or criminal jurisdiction within this Province, and to appoint, from time to time, the judges and officers thereof, as His Majesty, His Heirs or Successors

Reservation of the King's rights.

3 Will. IV. An Act further to continue for a limited time, and to amend a
Cap. 18. certain act therein mentioned, relating to the inferior district
of Saint Francis.

Preamble.

10 & 11 Geo.

4. Cap. 7, con-
tinued.

WHEREAS it is expedient further to continue for a limited time, and to amend the several acts hereinafter mentioned:—Be it therefore enacted, &c., that a certain act, &c., (10 and 11 Geo. 4. cap. 7. *Mere continuing clause. Effete.*)

Name altered.

II. And be it further enacted, &c., that the said district heretofore called the inferior district of Saint Francis, shall be hereafter called the district of Saint Francis.

5. ATTACHMENT, WRITS OF.

10 & 11 Geo.
IV. Cap. 26.

An Act to repeal so much of the Ordinance of the twenty-seventh George the Third, chapter four, intituled, *An Ordinance to continue in force for a limited time an Ordinance made in the twenty-fifth year of His Majesty's reign, intituled, "An Ordinance to regulate the proceedings in the Courts of Civil Judicature, and to establish Trials by Juries in actions of a Commercial nature, and Personal wrongs to be compensated in damages, with such additional regulations as are expedient and necessary," as requires that Writs of Attachment be indorsed.*

Preamble.

WHEREAS the provisions of a certain ordinance made and passed in the twenty-seventh year of the reign of His late Majesty, chapter four, intituled, *An ordinance to continue in force for a limited time, an ordinance made in the twenty-fifth year of His Majesty's reign, intituled, "An ordinance to regulate the proceedings in the courts of civil judicature, and to establish trials by juries in actions of a commercial nature and personal wrongs to be compensated in damages, with such additional regulations as are expedient and necessary,"* requiring that certain writs of attachment be indorsed, have been found inexpedient:—Be it therefore enacted, &c., that so much of an ordinance made and passed, &c., (27 Geo. 3. cap. 4,) as requires that due proof to the satisfaction of one of the judges of the court issuing the same, that the defendant or proprietor of the said debts and effects is indebted to the plaintiff in a sum exceeding ten pounds, and is about to secrete the same, or doth abscond, or doth suddenly intend to depart from the Province, with an intent to defraud his creditor or creditors, and that the defendant is then indebted to the plaintiff, and he doth verily believe that he shall lose his debt or sustain damage, without the benefit of such attachment, be indorsed on such writ, shall be, and the same is hereby repealed: Provided always, that the sum or sums of money specified in the affidavit upon which such writ or process shall issue, and also the name of the person upon whose affidavit such writ or process shall have been obtained, shall be indorsed on such writ or process, for which sum or sums so indorsed, with the amount of the costs to be taxed, together with the interest to accrue, the sheriff or other officer to whom such writ shall be directed shall take bail, and for no more.

Ordinance 27
Geo. 3. Cap. 4.
repealed in
part.

Proviso.

The amount of
the sum speci-
fied in the affi-
davit to be en-
dorsed on such
writ

shall have, within the said inferior district, both in and out of court, during the term and in vacation, the same powers and authorities in all cases as the courts of King's bench at Quebec and Montreal and the justices thereof, now have and enjoy by the laws of this Province.

III. And be it further enacted, &c., that an appeal shall lie from every judgment of the said court of King's bench to be holden at the village of Sherbrooke, as aforesaid, to the court of appeals of this Province, in all cases where an appeal would lie thereto, if such judgment had been rendered in either of the courts of King's bench at Quebec or Montreal; and all the provisions of the laws of this Province, respecting appeals from the judgment of the said last-mentioned courts, are hereby extended to appeals from the judgments of the said court of King's bench to be holden at the village of Sherbrooke as aforesaid. Appeal allowed from the said court.

IV. And be it further enacted, &c., that the clerk or prothonotary of the provincial court of the said inferior district of Saint Francis shall be the prothonotary of the court of King's bench to be holden at the village of Sherbrooke as aforesaid. Clerk of the court. But see Tables.

An Act to make better provision with regard to Appeals from the Provincial Court of the Inferior District of Saint Francis, to establish Circuits therein, and to extend the benefits of Trial by Jury to the said Inferior District. WILL IV. Cap. 8.

WHEREAS it would be greatly to the advantage of suitors in the provincial court of the inferior district of Saint Francis, that appeals from the judgments of the said court should lie to the court of King's bench holden in the said inferior District, and not to the courts of King's bench, at Montreal and Three-Rivers, as heretofore it hath been practised:—Be it therefore enacted, &c., that in every case, &c. (*This section is effete. See Tables.*) Preamble. Appeals from the court of St. Francis.

III. And whereas it is expedient that the benefit of the trial by jury in civil cases, as established by the laws of this Province, should be extended to the inhabitants of the said inferior district:—Be it therefore enacted, &c., that in every suit or action brought in the court of King's bench held in the said inferior district of Saint Francis, in which a trial by jury might be had, if such suit or action were brought in the court of King's bench in the district of Quebec, Montreal or Three-Rivers, it shall be lawful for either of the parties to such suit or action to have and obtain the trial and verdict of a jury; and all the provisions and enactments of the several ordinances and statutes in force in this Province at the time of the passing of this act, or at any time thereafter, with regard to juries and to trials by jury in civil cases, generally, and to the manner in which the lists of jurors shall be made and in which juries shall be struck, impanelled and summoned, or with regard to the verdicts of such juries and to the consequences thereof, in the courts of King's bench for the districts of Quebec, Montreal and Three-Rivers, shall be and are hereby extended to the court of King's bench held in the said inferior district of Saint Francis: Trials by jury in civil cases extended to the inferior district of Saint Francis. See Tables. Provided always, that the sheriff of the said inferior district of Saint Francis shall also comprise, in the lists of jurors directed to be made as aforesaid, the names of all such persons residing within seven leagues of the courthouse in the village of Sherbrooke, as shall be proprietors of a freehold of the annual value of ten pounds, sterling. Proviso.

3 Will. IV. An Act further to continue for a limited time, and to amend a
Cap. 18. certain act therein mentioned, relating to the inferior district
of Saint Francis.

Preamble.

10 & 11 Geo.
4. Cap. 7, con-
tinued.

WHEREAS it is expedient further to continue for a limited time,
and to amend the several acts hereinafter mentioned:—Be it
therefore enacted, &c., that a certain act, &c., (10 and 11 Geo. 4. cap. 7.
Mere continuing clause. Effete.)

Name altered.

II. And be it further enacted, &c., that the said district heretofore called
the inferior district of Saint Francis, shall be hereafter called the district of
Saint Francis.

5. ATTACHMENT, WRITS OF.

10 & 11 Geo.
IV. Cap. 26.

An Act to repeal so much of the Ordinance of the twenty-
seventh George the Third, chapter four, intituled, *An Ordinance to continue in force for a limited time an Ordinance made in the twenty-fifth year of His Majesty's reign, intituled, "An Ordinance to regulate the proceedings in the Courts of Civil Judicature, and to establish Trials by Juries in actions of a Commercial nature, and Personal wrongs to be compensated in damages, with such additional regulations as are expedient and necessary," as requires that Writs of Attachment be indorsed.*

Preamble.

WHEREAS the provisions of a certain ordinance made and passed in
the twenty-seventh year of the reign of His late Majesty, chapter
four, intituled, *An ordinance to continue in force for a limited time, an ordinance made in the twenty-fifth year of His Majesty's reign, intituled, "An ordinance to regulate the proceedings in the courts of civil judicature, and to establish trials by juries in actions of a commercial nature and personal wrongs to be compensated in damages, with such additional regulations as are expedient and necessary,"* requiring that certain writs of attachment be indorsed, have been found inexpedient:—Be it therefore enacted, &c., that so much of an ordinance made and passed, &c., (27 Geo. 3. cap. 4,) as requires that due proof to the satisfaction of one of the judges of the court issuing the same, that the defendant or proprietor of the said debts and effects is indebted to the plaintiff in a sum exceeding ten pounds, and is about to secrete the same, or doth abscond, or doth suddenly intend to depart from the Province, with an intent to defraud his creditor or creditors, and that the defendant is then indebted to the plaintiff, and he doth verily believe that he shall lose his debt or sustain damage, without the benefit of such attachment, be indorsed on such writ, shall be,

Ordinance 27
Geo. 3. Cap. 4.
repealed in
part.

Proviso.

The amount of
the sum speci-
fied in the affi-
davit to be en-
dorsed on such
writ

and the same is hereby repealed: Provided always, that the sum or sums
of money specified in the affidavit upon which such writ or process shall
issue, and also the name of the person upon whose affidavit such writ or
process shall have been obtained, shall be indorsed on such writ or process,
for which sum or sums so indorsed, with the amount of the costs to be taxed,
together with the interest to accrue, the sheriff or other officer to whom
such writ shall be directed shall take bail, and for no more.

6. CAPIAS AD RESPONDENDUM, WRITS OF.

An Act to alter and amend certain parts of an Ordinance made ^{5 Geo. IV.} and passed in the twenty-fifth Year of the Reign of His late ^{Cap. 2.} Majesty King George the Third, intituled, *An Ordinance to regulate the proceedings of the Courts of Civil Judicature, and to establish Trials by Juries, in actions of a Commercial nature and Personal wrongs to be compensated in damages, in what relates to the issuing of Writs of Capias ad Respondendum, and to Special Bail.*

WHEREAS, in and by an ordinance made and passed by the Gover- ^{Preamble.}
nor and legislative council of the Province of Quebec, in the
twenty-fifth year of the reign of His late Majesty King George the Third,
*intituled, An ordinance to regulate the proceedings in the courts of
civil judicature, and to establish trials by juries, in actions of a com-
mercial nature and personal wrongs to be compensated in damages,*
it is among other things ordained and enacted, that in all and every case
where one or more judges of any court of common pleas is or may be satis-
fied, by the affidavit of the plaintiff, or his book-keeper or clerk, or legal
attorney, that the defendant is personally indebted to the plaintiff in a sum
exceeding ten pounds, sterling, and may also be satisfied, by the oath of the
plaintiff or some other person, that the defendant is immediately about to
leave the Province, and whereby the plaintiff might be deprived of his
remedy against such defendant, it shall and may be lawful for one or more
judge or judges of any court of common pleas, to grant a *capias* or attach-
ment against the body of such defendant, to be directed to the sheriff, to
hold such defendant to bail for his appearance at the return of such writ,
and in default thereof to commit him to prison, there to remain until special
bail may be given by such defendant, or until two days after execution may
be obtained by the plaintiff, if judgment be in his favour; and whereas
the facility thereby afforded of obtaining a *capias ad respondendum*
against debtors, whereby such debtors become liable in their body for the
payment of debts for which otherwise, and of common right, they would
not be so liable, has encouraged, and may for the future encourage, divers
creditors vexatiously to obtain such *capias* as a means of altering and tor-
tiously improving the nature of their security, to the manifest oppression
and ruin of such debtors:—Be it therefore enacted, &c., that from and
after the passing of this act, the condition of every recognizance of special
bail, or bail to the action, to be given or put in by any defendant who
shall have been arrested under and by virtue of any writ of *capias ad
respondendum* issued agreeably to the provisions of the said ordinance,
shall be such that the cognizors thereof shall not become liable unless the
defendant shall leave this Province without having paid the debt, interest
and costs, for which the action shall have been brought; and such special
bail may be put in and given, at any time after the arrest of the defendant
in virtue of such *capias*, either before the court from which the same shall
have issued, or before any judge or justice of such court, at any time before
or after judgment.

Ordinance 25
Geo. 3 Cap. 2,
Sect. 4, recited.

Condition of
the recogni-
zance of special
bail to be given
by defendants
arrested on *ca-
pias ad respon-
dendum.*

II. Provided always, and be it further enacted, &c., that nothing in this ^{Proviso.}
act contained shall be construed, or taken in any manner, to affect the right
of the bail to take and surrender the defendant in discharge of themselves.

Provisions as to *capias ad respondendum* at the suit of any person residing in the Province of Upper Canada, against any other person residing in the said Province.

III. And whereas persons residing in the Province of Upper Canada, coming into this Province with an intent speedily to return to the said Province of Upper Canada, have often times been arrested and imprisoned in this Province, by virtue of *capias ad respondendum* issued therein, at the suit of their creditors also resident in the said Province of Upper Canada, to the intolerable vexation of such debtors, and contrary to the true intent and meaning of the said ordinance, which was made for the Province of Quebec, comprehending the Provinces of Lower Canada and Upper Canada :—For remedy thereof ; be it further enacted, &c., that from and after the passing of this act, no writ of *capias ad respondendum* shall be granted or issued at the suit of any person or persons residing in the Province of Upper Canada, against any person or persons residing within the said Province, unless in addition to the affidavit required by the said ordinance, the plaintiff or plaintiffs, or some other person or persons, shall make oath, before a judge or justice of any court of King's bench or provincial judge, that the defendant or defendants is or are immediately about to resort to some country or place without the limits of the Province of Upper Canada, and hath not, or have not, within the limits of the said Province, any lands or other immoveable estate out of which the plaintiff or plaintiffs can reasonably expect to be paid or satisfied the amount of his debt.

7 Geo. IV.]
Cap. 8.

An Act to facilitate the proceedings at Law, in certain cases therein mentioned, relating to Writs of *Capias* and Attachment.

Preamble.

Writs of *capias ad respondendum* or attachment, &c. when obtained, the service of the declaration may be subsequently made, in term or in vacation.

WHEREAS it is expedient to facilitate the recourse of creditors against fraudulent and absconding debtors :—Be it therefore enacted, &c., that in all cases where, by the laws of this Province, any plaintiff is entitled to and shall have obtained a writ of *capias ad respondendum* or attachment against the body of any defendant, *saisie gagerie*, *saisie en revendication*, or attachment for attaching the estate, debts and effects, of what nature soever, whether in the hands of the owner, the debtor, or of a third person, service of the declaration, specifying the cause of action upon which such writ or writs shall have respectively issued, may be made upon the defendant, either personally, or by being left at the office of the sheriff of the court into which such writ shall have been made returnable, at any time within three days next after the service of such writ, if the same have issued in term, or within eight days next after such service, if the writ have issued in vacation ; and that service of such declaration, in manner aforesaid, shall be good and sufficient in law to compel the defendant to appear in court and answer to the demand of the plaintiff, in the same manner as if such declaration had been served together with the original writ ; any law, usage, or custom heretofore in force in this Province, to the contrary hereof in any wise notwithstanding.

7. DEBTORS, AGAINST THE EFFECTS OF.

9 Geo. IV.
Cap. 28.

An Act to facilitate the proceedings against the Estates and Effects of Debtors, in certain cases.—(*Temporary*.)

Preamble.

WHEREAS it frequently occurs that debtors having estates or effects within this Province, do secretly depart the same and procure their

aid estates and effects, or the value thereof, to be remitted to them, or do conceal themselves within the Province in order to elude the service of the ordinary process of the law and defraud their creditors of their just dues:—For remedy whereof, be it enacted, &c., that in each and every case in which the estate, debts or effects of any debtor or debtors shall or may be attached by *saisie arrêt* or *arrêt simple*, under process issued out of any of His Majesty's courts of civil jurisdiction within this Province, and in which the said debtor or debtors is or are either departed from or concealed within the said Province, so that service of the said process cannot be made as by law required, it shall be lawful for the court in which such suit or action is instituted, or for any judge of the said court in vacation, on receiving satisfactory proof by one credible witness of such departure or concealment, to dispense with such service, and to order notice in lieu thereof to be inserted in such public newspaper as the said court or judge in vacation shall direct, for the said debtor or debtors to appear in the said court within two months and await the judgment of the court; and if the said debtor or debtors shall not appear either in person or by attorney within the time specified in such notice, and shew reasonable cause why the court should not proceed to judgment in such suit or action, such notice shall have the same force and effect as if the said process had been actually served within the jurisdiction of the court where the suit is instituted; any law, usage or custom to the contrary notwithstanding.

Cases of attachment of the estate, &c. of debtors who are either departed or concealed within the Province provided for.

See Tables.

II. Provided always, and be it further enacted, &c., that any such debtor or debtors against whom judgment shall be recovered as aforesaid, shall be entitled to a re-hearing of the cause in which such judgment shall have been rendered, at any time within the year and day after judgment; and the plaintiff or plaintiffs in such action, before any execution shall issue on such judgment, shall give sufficient security to the satisfaction of any one of the judges of the court in which such judgment shall have been given, to refund such sum or sums of money as may be levied by virtue of such execution, in case the said judgment should be reversed on such re-hearing as aforesaid, with the costs thereof.

Debtor entitled to a re-hearing of the cause.

III. Provided always, and be it further enacted, &c., that nothing herein enacted, respecting the security in the foregoing section, shall be construed to extend to persons who shall obtain judgment for wages, as having cut timber or conveyed the same in a raft to any part of this province, who may obtain and take out execution and cause such timber to be seized and sold in satisfaction of such judgment, without being obliged to give such security.

The foregoing section not to extend to persons obtaining judgment as having cut timber, &c. But see Tables.

IV. And be it further enacted, &c., that if any person or persons shall be sued for any matter or thing done in pursuance or by virtue of this act, it shall be lawful for him, her or them to plead the general issue and give the special matter in evidence.

General issue.

V. Provided always, and be it further enacted, &c., that no person or persons upon whom any writ of attachment, or writ of *saisie arrêt* or *entiercement*,* for attaching the estate, debts, credits, and effects of any debtor or other person defendant in any action pending or to be brought in any of the said courts, shall be held and declared to be personally liable, or condemned as the debtor of such defendant, unless service of such writ shall have been made upon him personally, or unless the court from which such writ shall have issued, shall and may be satisfied, upon proof by one or

No person to be condemned as the debtor of any defendant, unless service of the writ be personal or he conceal himself.

* See. But some

words corresponding to "sera donnée" in the french seem omitted.

more credible witnesses, that such person intentionally conceals himself for the purpose of avoiding the personal service of such writ, in which case service thereof at his domicile shall be deemed and taken as good and sufficient service of such writ of attachment, *saisie arrêt* or *entiercement*, as aforesaid; any law, custom or usage to the contrary notwithstanding.

8. DEBTORS, FRAUDULENT EVASION OF.

9 Geo. IV.
Cap. 27.

An Act to prevent fraudulent Debtors evading their Creditors, in certain parts of this Province.—(*Temporary*.)

Preamble.

When a *capias* may issue against the body or moveable effects before judgment, commissioners specially appointed to take and receive affidavits, may cause the debtors and their moveable effects to be arrested.

WHEREAS, by reason of the remoteness of divers townships and seigniories in this Province, from the several courts of King's bench holding superior jurisdiction in the several districts thereof, insolvent and fraudulent debtors elude the pursuit of their creditors, and withdraw from the jurisdiction of the said courts, carrying with them out of this Province their goods and moveable effects, before process can be obtained according to the course of the laws now in force in this Province, to prevent the escape of such debtors or to attach their moveable property and effects, thereby causing great and ruinous losses to divers of His Majesty's subjects:—Be it therefore enacted, &c., that from and after the passing of this act, in all cases wherein by law a *capias* or attachment may issue against the body or moveable effects of any debtor or debtors, before trial and judgment, it shall and may be lawful for any commissioner specially appointed to take and receive affidavits by His Majesty's court of King's bench, in any of the said districts, (the oath or affidavit in such cases by law required, and to his satisfaction and according to the form number one or two hereunto annexed, as the case may require, before him having been first previously made,) to issue his warrant, in the form number three or the form number four hereunto annexed, as the case may require, directed to the sheriff of the said district or his deputy, or to the bailiff or peace officer nearest to the place of residence of such commissioner, for the arrest of such debtor or debtors, or for the attachment and seizure of the moveable property and effects of such debtor or debtors, as the case may be, and to cause such debtor or debtors to be arrested and conveyed to the common gaol of the said district, wherein such commissioner may be resident and domiciliated and appointed to take such affidavits, or the moveable property and effects of such debtor or debtors to be arrested and detained, as the case may be: Provided always, that no person who shall have been so arrested and conveyed to gaol, shall be detained therein for a longer time than forty-eight hours from the time of his committal thereto, unless, before the expiration of the said term of forty-eight hours, the ordinary process of *capias* shall have been issued and executed in due course of law; and that no moveable property or effects so seized and attached, shall remain so seized or attached for a longer period than twelve days from the time of such seizure or attachment, unless, before the expiration of the said term of twelve days, the ordinary process of attachment shall have been issued and executed in due course of law.

See Tables.

Proviso.

Duplicate of the warrant to be transmitted to the protho-

II. And be it further enacted, &c., that a duplicate of every such warrant, together with the original of the affidavit upon which the same shall have been founded, and a certificate of the proceedings had in consequence and

by virtue thereof, shall, by the commissioner by whom the said warrant shall have been granted, be forthwith transmitted to the prothonotary of His Majesty's court of King's bench for the district in which he may have been so appointed a commissioner, to be by him fyled in the cause to which the same shall relate, and to be kept and preserved among the records of the said court.

III. And be it further enacted, &c., that it shall be lawful to and for such commissioner to require and receive the sum of three shillings and four pence, currency, from the person demanding the same, for any such warrant to be by him granted in pursuance of this act, and the further sum of three shillings and four pence, currency, for every return of the proceedings taken under any such warrant.

FORM NUMBER ONE—AFFIDAVIT FOR WARRANT OF ARREST.

"A. B., of being duly sworn, doth depose and say, that C. D., of personally indebted to in a sum exceeding ten pounds sterling, to wit: in the sum of

"That this deponent is credibly informed, hath every reason to believe, and doth verily and in his conscience believe, that the said immediately about to leave the Province, whereby the said without the benefit of a warrant of attachment against the body of the said, may be deprived of remedy against the said and this deponent hath,

"Sworn before me, this day of."

FORM NUMBER TWO—AFFIDAVIT TO OBTAIN WARRANT OF ATTACHMENT.

"A. E., of being duly sworn, doth depose and say that C. D., of is indebted to of in a sum exceeding ten pounds sterling, to wit: in the sum of

"That this deponent is credibly informed and hath every reason to believe, and doth verily and in his conscience believe, that the said now about immediately to secrete estate, debts and effects, and do abscond and do intend suddenly to depart from the Province, with an intent to defraud the said and creditors.

"This deponent further saith, that he doth verily believe, that without the benefit of a warrant of attachment against the said will lose his debt and sustain damage, and hath

"Sworn before me, at this

FORM NUMBER THREE—WARRANT TO ARREST THE PERSON.

"Province of Lower Canada, district of

"A. B., Esquire, commissioner duly empowered to take affidavits to be used and read in His Majesty's court of King's bench for the district of

"To and to the keeper of the common gaol of the said district, greeting:—

"I command you, that you take of in the county of in the district of if he be found in and him, with all due diligence, convey to the common

" gaol of the said district, and deliver to the keeper thereof, together with
 " this warrant ; and I do hereby command you, the said keeper, to receive
 " the said and him safely keep for the space of forty-eight
 " hours, and no longer, unless, before the expiration of that time, a writ
 " of *capias ad respondendum* be duly served upon him, to compel him to
 " be and appear personally in His Majesty's court of King's bench for the
 " said district on the day of the return of such writ, to answer
 " of of a certain debt, interest and costs, amounting to the sum
 " of currency.
 " Given under my hand and seal, this day of in
 " the year of His present Majesty, King ."

FORM NUMBER FOUR—WARRANT OF ATTACHMENT.

" A. B., Esquire, commissioner duly empowered to re-
 " ceive affidavits to be used and read in His Majesty's court of King's
 " bench, for the district of ,
 " To Greeting :—
 " I command you, at the instance of , to attach
 " of and belonging to , if the same shall be found in the
 " , to the value of and the said
 " keep and detain in your charge and custody for the period of twelve
 " days, from the date hereof, and no longer, unless before the expiration of
 " twelve days, the said shall be seized by writ of attachment
 " issuing from the court of King's bench at at the suit of the
 " said
 " Given under my hand and seal, at this day of
 " in the year of the reign of His Majesty King ."

9. DEFENDANTS IN DIFFERENT DISTRICTS.

4 Geo. IV. An Act to provide more effectual means than heretofore have
 Cap. 17. been, to compel, in the proper Jurisdiction, the appearance
 of Defendants residing in different Districts, who ought to
 be joined in the same cause.

Preamble.

Manner in
 which plaintiffs
 are to proceed
 in cases where
 the defendants
 reside in diffe-
 rent districts.

See Tables.

WHEREAS serious delays and inconveniences are oftentimes expe-
 rienced by suitors in His Majesty's courts of law in this Province,
 in cases where several persons, who ought to be joined as defendants in the
 same cause, reside in different districts, so that process cannot be legally
 served upon them in such manner as to compel the appearance of all of
 them, in the jurisdiction wherein the cause or action may be legally insti-
 tuted :—Be it therefore enacted, &c., that when and as often as the persons
 who ought to be joined in the same action as defendants, reside in different
 districts, then and in such case it shall be lawful for the plaintiff, and at his
 choice, to prosecute the said action,—first, in matters real, in the jurisdiction
 wherein the object of the suit is situated ;—secondly, in matters of a mixed
 nature, in the jurisdiction wherein the object in litigation is situated or in
 the jurisdiction wherein the defendants or any of them may reside ;—and
 thirdly, if in matters of succession or descent, that is to say—first, in cases
 or *demandes* between co-heirs, to division or *partage* inclusively—second,
 in cases of *demandes* instituted by creditors of the deceased, previous to

partage—third, in cases or *demandes* relative to the execution of testamentary dispositions and *demandes* in *délivrance de legs*, until final judgment, in the jurisdiction wherein the succession shall be opened.

II. And be it further enacted, &c., that in any of the aforesaid cases, the court in which the action shall or ought to be instituted, may issue a writ or writs addressed to the sheriff or sheriffs of the several districts in this Province where the several defendants may respectively reside, which writ or writs, being first indorsed by the signature of any of His Majesty's judges for the district where the defendant or defendants may reside, and a copy thereof served upon such defendant or defendants, shall have the same force and effect as if the service had been made upon him or them, within the jurisdiction of the court where the action may have been instituted.

Court may issue writs to the sheriffs of the several districts where the defendants reside.

10. PRACTICE, IN VARIOUS MATTERS.

An Act to amend an Act passed in the fourth year of His late Majesty's reign, chapter seventeen, and further to facilitate the prosecutions of actions in certain cases.

4 Will. IV. Cap. 4.

WHEREAS it is expedient to amend and render more effectual a certain act passed in the fourth year of His late Majesty's reign, chapter seventeen, intituled, *An act to provide more effectual means than heretofore have been, to compel, in the proper jurisdiction, the appearance of defendants residing in different districts, who ought to be joined in the same cause*:—Be it therefore enacted, &c. that in any suit or action wherein the instance shall stand or be interrupted by the decease of any one or more of the parties thereto, and the legal representative or representatives of the party or parties deceased shall be domiciliated in any district or districts of this Province, other than that wherein the original suit was pending, it shall and may be lawful for the court having cognizance of such suit or action, to issue a writ or writs addressed to the sheriff or sheriffs of the several districts in this Province in which such legal representative or representatives may respectively reside, which writ or writs, being first indorsed by the signature of any of His Majesty's judges for the district where such representative or representatives may reside, and a copy thereof served upon such representative or representatives, shall have the same force and effect as if the service had been made upon him, her, or them, within the jurisdiction of the court wherein the original suit was so pending.

Preamble.

4 Geo. 4. Cap. 17.

How to proceed in prosecuting actions in certain cases.

II. And be it further enacted, &c., that whenever a writ of attachment shall issue out of any of the several courts of King's bench for the several districts of this Province, for the attaching of monies, goods or effects in the hands of a person or persons within the jurisdiction of the court out of which such attachment shall issue, and the person or any of the persons against whom such attachment shall so issue shall be resident in any other district of this Province, it shall and may be lawful for the court to issue a writ or writs addressed to the sheriff or sheriffs of the district or districts in which such person or persons shall then reside; which writ or writs, being first indorsed by the signature of any of His Majesty's judges for the district in which such person or persons shall then reside, and a copy thereof served upon such person or persons, shall have the same force and effect

Manner in which writs of attachment may be executed in certain cases.

See Tables.

as if the same had been served upon him, her or them, in the district in which such monies, goods or effects shall have been so attached as aforesaid.

Manner in which, after judgment obtained, money, &c., may be attached.

III. And be it further enacted, &c., that whenever the plaintiff in any suit shall, after judgment in his favour, wish to attach monies, goods or chattels belonging to the defendant, in the hands of a third person resident in any district other than that in which such suit was instituted, such plaintiff may obtain a writ of attachment from the court by which the judgment was rendered, addressed to the sheriff of the district in which such third person shall be resident, commanding such sheriff to summon such third person to appear, either in term or in vacation, (within such delay as is prescribed by the rules of practice of the court, for the appearance of defendants summoned by writ of summons *ad respondendum*,) at the prothonotary's office of the court of King's bench for the district last mentioned, before one of the judges of the said court; and such writ (being indorsed by one of the judges of the said court,) shall be, in all respects, obeyed by such sheriff; and any one of the judges of the said court is hereby empowered to receive the declaration of the *tiers-saisi*, and shall forthwith transmit the same to the justices of the court out of which the writ issued.

Manner of proceeding, if the declaration by the *tiers-saisi* be not contested.

IV. And be it further enacted, &c., that if the declaration made by the *tiers-saisi* in any such case be not contested by the plaintiff, such plaintiff may move for and obtain judgment from the court from which the writ issued, pursuant to such declaration, and may, after the expiration of fifteen days from the day on which such judgment shall be served on the *tiers-saisi*, sue out of the said court a writ of execution against such *tiers-saisi*, directed to the sheriff of the district in which the *tiers-saisi* made his declaration; and such writ, being first duly indorsed, by one of the justices of the court of King's bench for the said district, shall be, in all respects, obeyed by such sheriff: Provided always, that if such plaintiff shall wish to contest the declaration of the *tiers-saisi*, he may move the court in which the suit was instituted, for leave so to do, and on obtaining such leave may file his contestation of such declaration; and the said Court, shall thereupon transmit such contestation, with a true copy of the judgment in favor of the plaintiff, and of the writ of attachment, and of such other proceedings in the suit as the court may deem necessary, or as either party may require, to the court in which the declaration of the *tiers-saisi* was made; and the said court shall and may proceed in all respects in regard to such contestation, as if the suit had been originally brought before the said court.

Proviso.
Contestation of declaration of the *tiers-saisi*.

Manner in which hypothecary actions may be instituted.

V. And be it further enacted, &c., that from and after the passing of this act, any action *hypothécaire* may be instituted and prosecuted in the district in which the defendant (or the defendants) shall reside at the commencement of the suit; and it shall be lawful for the court having cognizance of such suit, to proceed with regard to the same in such manner in all respects as is provided in the act hereinbefore cited, in the several cases therein mentioned; and such court may issue a writ or writs of execution, directed to the sheriff of the district in which the property hypothecated is situate, which writ or writs being first indorsed by one of the justices of the court of King's bench for such district, shall be obeyed by such sheriff, and the proper return thereto shall be made to the court out of which such writ or writs shall have issued, and the monies levied under the same (if any) shall be paid by such sheriff, according to the order or orders of such

See Tables.

last mentioned court, which shall, with regard to such writ or writs, have the same authority over the said sheriff as it has over the sheriff of the district in and for which it is constituted.

11. JURY TRIAL EXTENDED.

An Act to extend the benefit of the Trial by Jury.

9 Geo. IV.
Cap. 10.

WHEREAS, by an ordinance of the late Province of Quebec, made and passed in the twenty-fifth year of the reign of His late Majesty King George the Third, of glorious memory, intituled, *An ordinance to regulate the proceedings in the courts of civil judicature, and to establish trials by juries, in actions of a commercial nature and personal wrongs to be compensated in damages*, it is amongst other things enacted, "that all and every person having suits at law and actions in any of the said courts of common pleas, grounded on debts, promises, contracts and agreements of a mercantile nature only, between merchant and merchant, and trader and trader, so reputed and understood according to law, and also of personal wrongs proper to be compensated in damages, may, at the option and choice of either party, have and obtain the trial and verdict of a jury, as well for the assessment of damages on personal wrongs committed, as the determination of matters of fact in any such cause;" and whereas it is expedient to extend the benefit of the trial by jury:—Be it therefore enacted, &c., that in any personal action whatever in which the remedy sought is compensation in damages, interest and costs only, for some wrong sustained by reason of some *délits* or *quasi délits* to moveable property only, it shall and may be lawful to and for the plaintiff and plaintiffs, defendant and defendants therein, and to and for either of them, at his, her or their option and choice, to have and obtain the trial and verdict of a jury, as well for the determination of matters of fact as for the assessment of damages in such action in due course of law, and in manner and form, as to all things, directed and provided by the ordinance hereinbefore recited.

Preamble.

25 Geo. 3. Cap.

In cases of wrongs sustained by *délits* or *quasi délits*, the plaintiff or defendant may demand a trial by jury.

12. EVIDENCE,—DECISORY OATH.

An Act to declare the Decisory Oath or *Serment Décisoire*, admissible in Commercial as well as other Civil Matters in this Province.

41 Geo. III.
Cap. 15.

WHEREAS, by the rules of English evidence followed in commercial matters in the courts of civil jurisdiction in this Province, it is doubtful if in the said commercial matters, the decisory oath or *serment décisoire* can be granted and admitted, when required by either of the parties; in order to set aside and remove all doubts and uncertainties in this respect:—Be it therefore enacted, &c., that from and after the passing of this act, all and every the courts of civil judicature in this Province shall allow and admit the decisory oath or *serment décisoire*, in commercial matters, whenever either of the parties shall exact it from the other, in manner as it has heretofore been granted, and as it is admitted and allowed in other civil matters, agreeable to the ancient laws, customs and usages of this Province.

Preamble.

Decisory oath admitted in commercial matters.

13. WITNESSES, RELATIONSHIP OF.

41 Geo. III.
Cap. 8.

An Act to amend an Article of the *Code Civil* with its derogations, as it hath been usually received in this Province, which directs and fixes the degrees of affinity and consanguinity of Witnesses in Civil Suits.

Preamble.

Eleventh article of twenty-second title, *enquêtes*, of the *code civil* in part repealed.

WHEREAS, by the eleventh article of the twenty-second title of the *code civil* with its derogations, as it hath been usually received in this Province, under the head *enquêtes*, the relations and connections of the parties to the degree of third cousins, inclusively, cannot be admitted as witnesses in civil matters to give evidence in their favour or against them; And whereas also, the alliances between families of the greater part of the parishes in this Province, are such, that many persons are deprived of witnesses to give evidence, where proof is required in the courts of justice in civil matters, which it becomes necessary to remedy:—Be it therefore enacted, &c., that from and after the passing of this act, the relations and connections of the parties, of the degrees removed beyond cousins german, exclusively, may be witnesses in civil matters, to depose in favor of or against them, notwithstanding the said eleventh article of the twenty-second title of *enquêtes* of the said ordinance, which is expressly repealed by this act, inasmuch as it regards the degrees of relationship, only.

14. COSTS LIMITED IN ACTIONS FOR DAMAGES.

7 Geo. IV.
Cap. 6.

An Act for more effectually preventing trivial and vexatious Law-Suits, and for restricting the Costs thereupon.

Preamble.

Costs of suit limited in certain cases.

WHEREAS it is expedient, for the prevention of trivial and vexatious suits at law, in actions for personal wrongs to be compensated in damages, whereby divers of His Majesty's subjects are often times put to great inconvenience and expense, to make provision with respect to costs, and in certain cases to limit the same:—Be it therefore enacted, &c., that in all such actions, the plaintiff, in case the court or jury shall find the damages to be under the value of forty shillings, sterling, shall not recover or obtain more costs of suit than the damages so found shall amount to.

15. LIMITS OF THE DISTRICT ALLOWED ON CA: SA:

6 Will. IV.
Cap. 4.

An Act to afford relief, during a limited time, to Insolvent Debtors.

Preamble.

Persons arrested on *capias ad satisfaciendum*, may have the limits of the district on giving security.

WHEREAS it is expedient to afford relief, to a limited extent, from arrests under writs of *capias ad satisfaciendum* to insolvent debtors:—Be it therefore enacted, &c., that from and after the first day of May next after the passing of this act, any person that now is or shall be hereafter arrested and detained by virtue of any writ of *capias ad satisfaciendum* shall, on giving good and sufficient security to the satisfaction of any justice of the court of King's bench or provincial court for the district or inferior district in which he shall have been arrested, that he will not depart from nor exceed the limits of the district in which he had his domicile at the time of his arrest, be entitled to his liberty, and to go at

large within the limits of such district ; and the condition of every recognizance in this behalf shall be, that the cognizors shall not become liable unless the defendant shall depart from or exceed the limits of the district without having paid the debt, interest and costs for which the action shall have been brought.

Condition of the recognizance.

II. And be it further enacted, &c., that every defendant who shall have given bail according to the requirements of this act, shall have liberty to go on board of any vessel or boat lying in any river within or opposite the district from the limits of which he is bound not to depart.

May go on board vessels in a river opposite the district.

III. And be it further enacted, &c., that to entitle any defendant to the benefit of the provisions in this act contained, such defendant shall file at the office of the prothonotary of the court by which judgment shall have been pronounced against him, a statement upon oath, making known of what property, real and personal, he is possessed, and where the same is situate, and also what rents or revenues he may have, to the intent that the plaintiff in the suit may proceed and take the same in execution, if he see fit; and if at any time after such statement shall have been so filed, and the defendant shall have given bail as directed by this act, the plaintiff in the suit can establish by evidence, that when the said statement was so filed the defendant was proprietor of any chattels, effects, lands or tenements not comprehended in the said statement, or that since the institution of the plaintiff's action, or within thirty days next preceding the institution thereof, the defendant hath conveyed any part of his property with the intent of defrauding the said plaintiff and depriving him of his remedy, or that the defendant hath refused to assign over to the plaintiff any of the said rents or revenues in satisfaction of the whole or part of the said judgment, then the said court shall, upon a petition presented to that effect, set aside the bail-bond given by the defendant in the said suit, and order a writ of *capias ad satisfaciendum* to issue against the body of the said defendant, in the manner directed by law in cases wherein the defendant hath not given bail as required by this act ; and the said defendant in such case shall not be entitled, when committed to prison under such writ of *capias ad satisfaciendum*, to have, claim, or receive from the plaintiff any allowance for his maintenance in prison ; any law, usage, or custom to the contrary notwithstanding.

Manner in which defendants are to proceed to entitle themselves to the benefits of this act.

See Tables.

How such benefit shall be forfeited.

IV. Provided always, and be it further enacted, &c., that nothing herein contained, shall be construed or taken in any manner to affect the right of the bail to take and surrender the defendant in discharge of themselves.

Right of bail to surrender defendant.

16. SEPTUAGENARIANS EXEMPTED FROM IMPRISONMENT.

An act to exempt Septuagenary Persons from Imprisonment for debts, in certain cases. 7 Geo. IV. Cap. 19.

WHEREAS it is expedient to enact, that septuagenary persons should be exempt from imprisonment for debts :—Be it therefore declared and enacted, &c., that no person having attained, or who hereafter shall attain the seventieth year of his or her age, arrested or liable to be arrested for any debt contracted in this Province at the time of the passing of this act, or hereafter to be contracted in the same, shall be detained or imprisoned

Preamble.

No septuagenary person to be liable to arrest or imprisonment for debt.

Proviso.

by reason of any such debt ; any law or ordinance to the contrary hereof in any wise notwithstanding: Provided always, that nothing herein contained shall extend or be construed to extend to exempt any person or persons, having attained such age as aforesaid, from being detained and imprisoned in satisfaction of any judgment or condemnation in damages rendered or to be rendered in any court of competent jurisdiction in this Province, in suits or actions for personal wrongs proper to be compensated in damages, or who may have fraudulently conveyed away or secreted his or their property, or who may be indebted as tutor, curator, sequestrator, depository, sheriff, coroner, bailiff or other officer having charge of public monies, or be a *caution judiciaire*, or indebted for the purchase money of any lands or tenements, goods or chattels sold and adjudged under the authority of justice, by licitation, *décret forcé*, *décret volontaire*, or otherwise.

Not to prevent any *capias ad respondendum* against an absconding debtor, or any legal recourse against his estate and effects.

II. Provided always, and be it further enacted, &c., that nothing in this act contained shall be construed to prevent any creditor from obtaining a *capias ad respondendum*, according to law, against any absconding debtor, or from any other legal recourse, to which, in commercial matters and other cases, he may be entitled against the goods and chattels, lands and tenements of any septuagenary debtor, the intent of this act being solely to exempt persons, on attaining the seventieth year of their age, from imprisonment for debt as aforesaid, by *capias ad satisfaciendum*, (in case the defendant shall make application to this effect to any two judges of His Majesty's court of King's bench, in term or in vacation, who on *bond fide* proof to their satisfaction, that the defendant has attained the seventieth year of his age, shall cause the defendant forthwith to be enlarged) without altering in any other respect any legal right or recourse to which the creditor may be entitled upon the estate and effects, real and personal, of the debtor.

17. CERTAIN GOODS EXEMPTED FROM SEIZURE.

2 Vict. (3).
Cap. 28.

An Ordinance to exempt certain articles from seizure in satisfaction of debts.

Preamble.

WHEREAS it is expedient that not only the beds and bedding and necessary wearing apparel of debtors, but likewise the beds and bedding and necessary wearing apparel of their families, and certain other property required for the subsistence of such debtors and their families, should be exempted from seizure, under writs of execution against such debtors:— Be it therefore ordained and enacted, &c., that in all cases wherein a writ of execution shall be issued, upon any judgment obtained in any court in this Province, it shall not be lawful for the sheriff or other officer executing such writ, to seize the bed or bedding or the necessary wearing apparel of the debtor, or of his or her family; nor shall such sheriff or officer seize every cow, sheep and hog, nor every stove, nor all the firewood belonging to such debtor; but one cow, three sheep, one hog, one stove, and one cord of firewood, to be selected by such debtor out of any larger number he may have, shall be exempt from seizure under any such writ: Provided always, that no cow, sheep, hog, stove or firewood shall be exempt from seizure in satisfaction of any debt contracted for the same, or for money borrowed to pay for it.

Description of articles, &c., exempt from seizure.

Proviso.

18. REAL PROPERTY UNDER SEIZURE, INJURIES TO.

An Ordinance to prevent Real Property under Seizure from being injured or wasted, to the damage of the party seizing. 2 Vict. (3). Cap. 48.

WHEREAS it is expedient to make legislative provision for preventing immoveable property seized in execution under judgment, from being fraudulently injured or wasted, or the value thereof from being in any way diminished:—Be it therefore ordained and enacted, &c., that any person who shall, personally or by the intervention of others, injure or waste, or diminish the value of any immoveable property, (whether belonging to such person or to any other person or persons,) seized in execution under any judgment, by destroying, carrying away or selling any house, out-house, or building whatsoever, or by wilfully deteriorating the same, or by destroying, carrying away or injuring any timber or fences, or any fixture in any house or building on the property so seized, being part of and belonging to such property, so that the creditor or creditors at whose suit the execution was issued, may be deprived of his, her or their just rights, shall be liable to be proceeded against by attachment against his or her body, (*contrainte per corps*); and such process may be awarded by the court, or by any judge thereof, in term or in vacation, after a rule or order to shew cause, duly served on such person, personally or at his or her domicile, and after proof made to the satisfaction of the said court or judge, of the facts alleged against such person, who may be committed to prison and there detained for a period not exceeding six calendar months.

Any person injuring real property under seizure, may be proceeded against by attachment against his body, and imprisoned.

II. Provided always, and be it further ordained and enacted, &c., that this ordinance shall not extend to deprive the party at whose suit any such property may have been seized, of any other legal recourse against the person or property of the debtor, which such party would have had, if this ordinance had not been passed.

Party seizing not to be deprived of other legal recourse.

19. ADVOCATES, ATTORNEYS, NOTARIES, &c.

An Ordinance concerning Advocates, Attorneys, Solicitors and Notaries, and for the more easy collection of His Majesty's Revenues. 25 Geo. III. Cap. 4.

WHEREAS the welfare and tranquility of families and the peace of individuals require, as an object of the greatest importance, that such persons only should be appointed to act and practise as barristers, advocates, attorneys, solicitors, proctors and notaries, who are properly qualified to perform the duties of those respective employments, and that under certain necessary and proper regulations:—Be it therefore ordained and enacted, &c., that from and after the publication of this ordinance, no person shall be commissioned, appointed or permitted to practise in any of His Majesty's courts of civil jurisdiction in this Province, as a barrister, advocate, solicitor, attorney or proctor at law, who shall not have, *bond fide* served a regular and continued clerkship, for and during the space of five years, under a contract in writing, for that purpose made and entered into, with some advocate or attorney duly admitted and practising in the courts of civil judicature in this Province, or in some other part of His Majesty's dominions, or with some clerk or register of any court of common pleas or court of appeals,

No person to be commissioned to practise at the bar, until he shall have served a clerkship of five years, unless already called to the bar, &c.

within this Province, for and during the space of six years, unless such person shall have been already called to the bar, or entitled so to be, and to practise as an advocate or attorney, in some court of civil jurisdiction, within some part of His Majesty's dominions; neither shall any person so entitled to be commissioned or admitted to practise as aforesaid, be commissioned or admitted to practise in any of the several capacities abovesaid, until after he shall have been examined by some of the first and most able barristers, advocates and attorneys of the courts of judicature in this Province, in the presence of the chief justice, or two or more judges of some of His Majesty's courts of common pleas, and that such person so examined, shall be by the said chief justice or judges approved and certified to be of fit capacity and character to be admitted to practise the law, in the several courts in this Province.

But see Tables.

Notaries, how commissioned.

II. That no person shall, hereafter, be commissioned or appointed a notary in this Province, who shall not have, *bonâ fide*, served a regular and continued clerkship, for and during the space of five years, under a contract in writing, for that purpose made and entered into, with some notary duly commissioned and appointed and practising as such,—and until after such person so serving a continued clerkship shall have been examined by some of the eldest notaries and practitioners in that science, in the presence of the chief justice, or two or more judges of His Majesty's court of common pleas of the district wherein such person may have so served his clerkship, and be approved in manner abovesaid, as a person of fit capacity and character to be commissioned and admitted to act and practise as a notary in this Province: And all and every notary with whom any person may serve a continued clerkship as abovesaid, shall give due proof, when required, of the service performed.

Notaries to collect and keep in order their minutes of acts.

III. That from and after the publication of this ordinance, all and every notary is and are hereby directed to collect and place in regular and due order, all and every the minutes of acts and contracts that may have been, or may be passed before them, in the proper order of time in which such acts may have been or may be passed; and shall select and put up the minutes and writings, of what nature soever, of every year's transactions and acts, in separate bundles, folded and covered with strong paper, in the manner of a register, and on the back of which shall be indorsed, the general contents of each bundle and the year in which the same may have been made or done.

Their registers open to legal inspection.

And that the registers as abovesaid of every notary, shall be open to legal inspection, for examining the legal state thereof; and if, on such examination, to be made at reasonable periods, it shall be found that any notary hath neglected obedience to this article, or that his registers are irregular and imperfectly kept and preserved, he shall be deprived of the office of notary, and held and considered as disqualified to pass any future act.

To comply with the ancient laws.

IV. And all and every notary are hereby required, strictly to comply with the ancient laws of this Province, with respect to the passing of acts before them or any of them, as notaries, and by which the validity of such their acts will be considered and adjudged.

Minutes, registers, &c., of notaries, how disposed of

V. That from and after the decease of any notary, his minutes, registers, books and acts, by him passed and preserved, as and relating to the duties of a notary, shall be held and considered as public records of the court of

common pleas of the district wherein he may have acted as a notary, and shall be forthwith deposited in the clerk's office of the said court of common pleas, of record, and for the benefit of His Majesty's subjects who may have legal interest therein. after their de-
cease.

That upon the decease of any notary, as abovesaid, the clerk of the court of common pleas of the district wherein the said deceased notary shall have resided, shall repair to the office of such deceased notary, and demand the records abovesaid, and shall upon delivery, take a regular account of the same, and in an inventory thereof, to be by him made, shall specify every particular minute, act, book and paper by him received, and shall sign and record the same in the said court of common pleas, and shall deliver a copy of the said inventory to the person from whom he may receive the several minutes, acts, books and papers as abovesaid. Duty of the
clerk of the
court on the de-
cease of any
notary.

That all and every clerk of any court so receiving the minutes, books and papers of any deceased notary, shall preserve a regular account of all fees which may be by him received for copies of any act so passed by such deceased notary, and shall, once every quarter of the year, for and during five years only, pay unto the widow or heirs of such deceased notary, one moiety of all fees which may be so received as abovesaid. To keep an ac-
count of fees
from such mi-
nutes.

VI. And whereas it has been found expedient, that notaries and clerks of courts should not be permitted to practise in any of His Majesty's courts of civil jurisdiction within this Province, as barristers, advocates, solicitors, attorneys or proctors at law, and that land surveyors should not hold and exercise the functions of notaries :—Be it therefore enacted and ordained, &c., that no person shall hereafter be appointed, commissioned, or admitted to practise in any court in this Province, as barrister, advocate, solicitor, attorney or proctor at law, or be or act as the clerk of any court, who may be a notary ; nor shall any person be appointed or permitted to act as a public land surveyor, who may be a notary ; but that these several occupations of practising the law in His Majesty's courts in this Province, and of being a clerk therein, and of notary, and of land surveyor, shall be held and exercised separately and by different persons, to the intent and purpose that the functions and duties of the one may not interfere with the other. Notaries and
clerks of courts
not to practise
as barristers.

No notary per-
mitted to act as
a land survey-
or.

And that all and every person, who at present may hold any two of the above appointments, and may exercise the joint functions and duties of those respective offices or trusts, are hereby required, that within twelve months from the publication of this ordinance, he and they do elect and make choice of the one of those employments, commissions or offices, which he or they may be desirous to hold, exercise and enjoy, and to transmit and file with the clerk of the court of common pleas of the district wherein such person may exercise the said employments and functions, such his election and choice. Election to be
made.
Effete.

VII. And it is hereby further ordained and enacted, that from and after the period of such choice and election, taken and made as abovesaid, no person being a notary, shall be permitted to plead or practise as a barrister, advocate, solicitor, attorney or proctor at law, in any court in this Province, or directly or indirectly sue out any writ or process whatever, or commence, carry on or defend any action or suit in the name or on behalf of any other person, whether by original writ or on appeal, in any of His Majesty's courts within this Province, on pain of being disqualified from acting and exercising the functions of a notary as abovesaid. After such
election no no-
tary to plead or
practise as a
barrister.

And also words. And all persons who may practise in any of the said courts as a barrister, advocate, attorney, solicitor or proctor, twelve months after the publication of this ordinance, or after the choice and election abovesaid, are hereby disqualified from passing any acts or deeds, or doing any other matter or thing in the capacity of a legal notary.

Until election be made, persons holding the two commissions disqualified to plead, &c.

VIII. That during the period abovesaid, and until the choice and election aforesaid, all and every person holding the two commissions as abovesaid and exercising the functions thereof, are hereby disqualified and prohibited from suing out any writ or process, or appearing in any court of justice, and there to plead or defend, or otherwise act as a barrister, advocate, counsel, attorney or proctor, in any matter or cause wherein any act passed before such person as a notary, be objected to, controverted, disputed or called in question.

Advocate concerned in any case, not to act as a notary in respect thereof.

And all and every person, being an advocate, attorney, solicitor or proctor at law and notary, who may have conducted, pleaded or been counselled and have advised, in and concerning any matter in dispute before any court of justice, is and are hereby prohibited and disqualified to pass any act as a notary, between the parties aforesaid, and wherein the matter that hath been or may be in dispute may, in anywise, enter into or make any part of such act or transaction so to be passed as abovesaid.

See Tables.

Proviso: Notaries making election to become advocates, may keep their minutes, and give copies thereof.

IX. Provided always, that all and every notary who shall comply with and perform the third article of this ordinance, and who, at or before the expiration of twelve months as abovesaid, may make his choice and election to be, remain, and act as a barrister, advocate, attorney, solicitor and proctor, or in any one of the said employments, shall and may hold and enjoy the benefit of keeping and preserving his study and several minutes and acts by him passed, when notary as abovesaid, and of making and delivering copies of the same, when legally required, and on payment of the lawful fees; and that after his decease, the books, minutes, acts, registers and papers of such notary shall become public records, in the manner prescribed by the fifth article of the present ordinance.

Duties of notaries for the better collection of the revenues of His Majesty.

X. And for the better collecting of His Majesty's rights and dues, which may arise and grow due by mutation fines, and *lods et ventes* and quints:—Be it also enacted, &c., that every person exercising the functions and duties of a legal notary, within this Province, shall regularly and duly, every three months in every year, commencing on the first day of August next, send and transmit to the receiver-general of the King's domain, (or to the person lawfully authorized to perform the duties of receiver-general in the city of Quebec) an abstract of all and every deed of sale, or act equivalent to a sale and, deeds of exchange and deeds of gift, subject to life-rent or charge, on pain of five pounds for every neglect, to be recovered by bill, plaint or information in any of His Majesty's courts of common pleas in this Province, to be paid to His Majesty's receiver general, and applied to the public uses of the Province.

See Tables.

Fees.

And for every such abstract, the notary making and transmitting the same shall be entitled to receive from His Majesty's said receiver general, one shilling and three pence, and no more.

Duty of sheriffs, &c.

XI. And also, that all and every sheriff, and the several clerks of the prerogative courts, in the separate districts of this province, shall in like manner, and under the same pains and penalties for neglect or disobedience, send and transmit to the receiver general as abovesaid, abstracts of all and

every sale by auction or otherwise, by them made, under process of any of His Majesty's courts to them or either of them directed,—and also of sales by licitation or judicial order and decree, and whereby any rights and dues may accrue to His Majesty's revenue, for each of which abstracts they shall in like manner be entitled to have and receive one shilling and three pence, and no more.

An Act to repeal certain parts of an Ordinance therein mentioned, concerning persons to be admitted to practise the Law, or to practise as Notaries in this Province. 6 Will. IV. Cap. 10.

WHEREAS it is no longer expedient that any person should be admitted to practise the law in this Province, solely because he has been admitted or is entitled to be admitted to practise the law in some other part of His Majesty's dominions, and without his having served a regular clerkship within this Province; and it is therefore necessary to repeal so much of the ordinance hereinafter mentioned, as allows such persons to be admitted as aforesaid; and whereas it is likewise expedient in certain cases to shorten the term of the clerkship of advocates and notaries:—Be it therefore enacted, &c., that so much of the first section of a certain ordinance passed in the twenty-fifth year of the reign of His Majesty George the Third, chapter four, intituled, *An ordinance concerning advocates, attorneys, solicitors and notaries, and for the more easy collection of His Majesty's revenues*, as is in the following words, “or in some other part of His Majesty's dominions,” and so much of the said ordinance as is in the following words, “unless such person shall have been already called to the bar, or entitled so to be, and to practise as an advocate or attorney in some court of civil jurisdiction within some part of His Majesty's dominions,” shall be and is hereby repealed; and no person shall hereafter be commissioned, appointed or permitted to practise in any of His Majesty's courts of civil jurisdiction in this Province as a barrister, advocate, solicitor, attorney or proctor at law, who shall not have *bonâ fide* served a regular and continued clerkship, within this Province, in the manner prescribed in and by the ordinance aforesaid, as amended by this act. Preamble. Part of 25 Geo. III. Cap. 4. repealed. No person to be commissioned without a regular clerkship in this Province.

II. And be it further enacted, &c., that any person who shall have gone through a regular, complete and continued collegiate course of study, including the courses of *belles lettres*, rhetoric and philosophy, (comprising logic, moral philosophy, mathematics and natural philosophy,) in one or in several of the seminaries or colleges of Quebec, Montreal, Saint Hyacinthe, Nicolet or Sainte Anne de la Pocatière, or in any other college legally established, or which shall be legally established in this Province or elsewhere, in which the said courses of study shall be taught, and shall produce a certificate to that effect, under the hand of the superior of such seminary or college, and shall moreover have served a regular and continued clerkship, under a contract in writing for that purpose made and entered into with some advocate or attorney duly admitted and practising in the courts of civil judicature in this Province, or with some duly commissioned and practising notary public, respectively, for and during the space of four years, and shall in all other respects have complied with and fulfilled the requirements of the ordinance hereinbefore cited, shall be entitled to be commissioned and to practise as a barrister, advocate, solicitor, attorney or proctor at law, in any of His Majesty's courts of civil jurisdiction in this Province, or as a notary public; any thing in the said ordinance to the contrary notwithstanding. Persons having gone through a collegiate course of study, &c., and served a clerkship during four years, may receive commission.

20. SHERIFF, OFFICE OF.

6 Will. IV. An Act for making certain regulations respecting the Office of
Cap. 15. Sheriff.

Preamble.

WHEREAS the duties and liabilities of sheriffs and of coroners, in civil matters, are not sufficiently defined, and it would be conducive to greater confidence in the administration of justice, if the duties and responsibilities of those important offices were defined and regulated by law :—
Be it therefore enacted, &c., that from and after the first day of September next, no person shall do or execute any of the duties of the office of sheriff or coroner, in civil matters, until he shall have first entered into a bond to His Majesty, His Heirs and Successors for the due execution thereof, to the amount and in the manner hereinafter enacted and required.

Sheriff or coron-
er to give se-
curity.

The amount
of security re-
quired.

See Tables.

Conditions of
the Bond.

II. And be it further enacted, &c., that the security required by this act, shall be given in the following sums, that is to say, by the sheriff of the district of Quebec, in a sum of four thousand pounds currency,—by the sheriff of the district of Montreal, in a sum of six thousand pounds, currency,—by the sheriff of the district of Three-Rivers, in a sum of two thousand pounds, currency,—by the sheriff of the inferior district of Gaspé, in a sum of one thousand five hundred pounds, currency,—and by the sheriff of the district of Saint Francis, in a sum of one thousand pounds, currency,—by the coroner of the district of Quebec, in the sum of three hundred and fifty pounds, currency,—by the coroner of the district of Montreal, in a sum of three hundred and fifty pounds, currency,—by the coroner of the district of Three-Rivers, in a sum of one hundred pounds, currency,—by the coroner of the inferior district of Gaspé, in a sum of fifty pounds, currency,—and by the coroner of the district of Saint Francis, in a sum of fifty pounds, currency; and every such bond or security shall be to our lord the King, His Heirs and Successors, and the condition shall be, that the sheriff or coroner giving such security, shall well and truly demean himself in the execution of all and every the duties of his office in civil matters, and shall duly pay over all monies to be levied or received by him as sheriff or coroner, as the case may be, to all and every the persons lawfully entitled to receive the same; and such bond or security shall avail to the King, and all persons whomsoever who shall or may be aggrieved by any breach of the condition aforesaid, or any part thereof.

Bond to be
made double.

See Tables.

III. And be it further enacted, &c., that every bond, act of *cautionnement* or suretyship which shall be made or executed by virtue of this act, shall be made double, and shall be taken and received by one of the judges of the district, respectively, or by the secretary of this Province; and one duplicate thereof shall be transmitted to and recorded in the office of the prothonotary or clerk of the court of King's bench or provincial court of the district for which such sheriff or coroner shall have been appointed; and the other duplicate shall be transmitted and remain in the civil secretary's office of this Province, among the public records thereof; and every person shall be entitled to have communication and copy of any such act, either at such prothonotary's office, or at the office of the secretary of this Province, upon payment of one shilling, currency, for every communication, and five shillings, currency, for every copy.

Before a bond
is executed no-
tice to be given
to the attorney

IV. And be it further enacted, &c., that before the taking or receiving of the bond, suretyship or *cautionnement* required by this act, notice in writing shall be duly given to His Majesty's attorney general, or in his

absence to the solicitor general, three days at least before the time of giving such bond or suretyship, and one additional day for each and every ten leagues distance between the place of residence of the attorney or solicitor general, as the case may be, and the place where such bond or suretyship shall be intended to be given, specifying the day, hour and particular place of giving such bond or suretyship, and the names, additions, and abode of the persons intending to become sureties; and no such bond or suretyship shall be taken or received until after due proof, upon oath, shall have been made of the giving of such notice in writing; which proof of notice shall remain of record in the office of the secretary of this Province, and communication thereof shall at all times be given *gratis* to any person applying for the same: Provided always, that such security shall not be held valid until the sureties shall have justified their sufficiency to the amount in which they shall be respectively liable.

general or, in his absence, to the solicitor general.

Proviso.

V. And be it further enacted, &c., that in case any person or persons who shall have become surety or sureties for any sheriff or coroner under the requirements of this act, shall afterwards die or become insolvent, *en déconfiture*, or depart from this Province, with the intent of establishing his domicile elsewhere, the sheriff or coroner for whom any such person or persons had become surety or sureties, shall, within one calendar month, give fresh security in the manner and to the amount hereinbefore required; and duplicates of the act of every such new suretyship shall be transmitted and deposited as hereinbefore enacted and required.

In cases of the death, &c., of the sureties, new securities to be given.

See Tables.

VI. And be it further enacted, &c., that every person who shall presume to do or perform any duty belonging to the office of sheriff or coroner, in civil matters, without having first given security, as required by this act, or who having given such security, shall refuse or neglect to renew the same in any of the cases requiring such renewal, under the requirements of this act, and shall continue to act as sheriff or coroner, in civil matters, after such refusal or neglect, shall be dismissed from the said office of sheriff or coroner, and shall forfeit and pay for the said offence a sum of five hundred pounds, currency, to be recovered, with costs of suit, in any court of King's bench, by action of debt, bill, plaint or information; one moiety of which penalty shall go to His Majesty, and the other moiety to any person or persons who shall sue for the same, within six months after the offence shall have been committed.

Penalty on persons performing the duty of sheriff or coroner, without having given securities.

See Tables.

VII. Provided always, and be it further enacted, &c., that when any sheriff or coroner, as aforesaid, shall die, be removed from, or resign his office, and that within the space of eighteen months from and after such death, removal or resignation, no misbehaviour shall appear to have been committed by such sheriff or coroner in the execution of his said office, then and in such case, at the end of the said eighteen months, the bond or suretyship so entered into by his said sureties, shall become void and of no effect as to such sureties, to all intents and purposes whatsoever; but such sheriff or coroner, his and their heirs, executors, administrators or curators, respectively, shall not be exonerated, if misbehaviour shall afterwards be discovered and established: Provided nevertheless, that the sureties of every such former sheriff or coroner shall be and remain bound and liable by virtue of, and to the amount mentioned in the act of suretyship, for all monies levied by such former sheriff or coroner, until the expiration of one entire year after the date of the judgment by which such former sheriff or coroner, his

Cases in which the sureties shall be exonerated.

See Tables.

Sureties to remain bound for monies levied under judgments.

heirs or legal representatives, shall have been ordered to pay over the said monies to the person or persons who may have a right to receive the same.

Sheriffs and coroners responsible for the acts of their deputies.

But see Tables.

VIII. And be it further enacted, &c. that every sheriff or coroner shall be, and he is hereby declared to be responsible to all persons for the acts of his deputies, bailiffs, or other his servants acting under him, where such deputies, bailiffs or other servants, are of the appointment of the sheriff as aforesaid : And to this end, be it further enacted, &c., that every sheriff shall have the appointment of all bailiffs, (*huissiers*) to be employed by him in the several districts of this Province; and further, that the several sheriffs shall be and they are hereby empowered to appoint, respectively, a deputy sheriff, with all the powers and authorities which by his commission are vested in such sheriff, to act as such deputy sheriff, in case of the temporary absence or indisposition of the sheriff, and whose acts and returns, as such deputy sheriff, shall be taken and received in all His Majesty's courts of law in this Province, and be as legal and valid to all intents and effects, as the acts and returns of the sheriff himself; and for all the acts of such deputy sheriff, such sheriff so appointing him shall be and he is hereby declared to be in like manner responsible.

Liabilities of sheriffs and coroners in certain cases.

But see Tables.

IX. And whereas by the laws now in force, the sheriffs in the several districts of this Province, and the coroners in certain cases, are charged with the service and execution of writs of summons and executions, and other civil process, which heretofore and of common right appertained to the office of *huissier*, as also with the custody and keeping of goods and chattels under seizure, which was heretofore entrusted to *gardiens*, and with the receipt, safe-keeping and payment of monies proceeding from the sales of goods and chattels, lands and tenements under writs of execution, which was heretofore the province of the *receveur de consignations*:—Be it therefore enacted, &c., that in the service and execution of writs of summons, of execution and other civil process, the custody and safe keeping of goods and chattels under seizure, and the receipt, safe keeping and payment of all monies by them levied under any writ or writs of execution, the several sheriffs and coroners in this Province shall be liable to the same extent and in the same cases, as any *huissier*, *gardien* or *receveur de consignations* would have been liable under the laws of Canada, previous to the year of Our Lord, one thousand seven hundred and fifty-nine: Provided always, that when any defendant or defendants shall offer a good and sufficient guardian or guardians to the sheriff or coroner seizing the goods and chattels of such defendant or defendants, under any writ of *fieri facias*, *arrêt simple*, or *revendication*, such sheriff or coroner shall be bound to accept of such guardian or guardians, and shall not be deemed answerable for the acts of such guardian or guardians, provided he can establish that such guardian or guardians, when accepted of by him, were solvent, or reputed so to be, to the amount of the value of the articles over which he or they were appointed guardian or guardians, as aforesaid.

Proviso.

Sheriffs and coroners to keep duplicate books.

X. And be it further enacted, &c., that the sheriff and the coroner of each and every district in this Province, shall, at all times hereafter, have and keep duplicate books or registers for the enrolling and recording of all deeds or acts of sale which shall be made by them of any lands and tenements, by virtue of their offices; which books or registers shall be authenticated on the first page thereof, by an attestation of the prothonotary or clerk of the court of King's bench or provincial court of the district, specifying the number of the pages of such books or registers, the purposes for which

they are intended, and the day and year of making such attestation, which shall be signed at full length by the prothonotary or clerk making the same, also on every subsequent page by the number thereof written in words at full length, and subscribed with the initial letters of the usual signature of the prothonotary or clerk; and the sheriff and coroner of each and every district shall, respectively, from day to day, enroll and enter in each of the said books or registers, without any blank or interval, all and every the deeds or acts of sale which shall be made by them of any lands and tenements, by virtue of their offices, together with an alphabetical index to the same, until the said books or registers shall be filled, and shall immediately afterwards deposit one duplicate thereof in the office of the prothonotary or clerk of the court of King's bench, or clerk of the provincial court of the district for which he shall be sheriff or coroner, there to remain of record in the archives of the district, and shall keep the other duplicate; and all copies from such books or registers, certified by the sheriff or coroner, prothonotary or clerk having the custody thereof, shall be considered as authentic in all and every the courts of justice in this Province; and every prothonotary, clerk, sheriff or coroner, having the custody of any such books, register or registers, shall be entitled to have and receive for each and every copy thereof, not exceeding two hundred words, a sum of five shillings, currency, and if such copy shall exceed two hundred words, then at the rate of six pence, currency, for every additional hundred words whereof the same shall consist, and no more.

XI. And whereas the keeping of double registers of deeds of sale, statements of account at each and every term of civil jurisdiction, and other additional duties required by this act, will materially increase the official labor of the sheriffs of Quebec and Montreal, respectively:—Be it therefore enacted, &c., that there shall be allowed to each of the said sheriffs, respectively, from and after the passing of this act, a sum of five pounds, currency, per annum, as compensation for such additional duties.

Allowance to sheriffs and coroners for keeping the same.

XII. And be it further enacted, &c., that to every return of a seizure of any goods and chattels or lands and tenements, the *procès verbal* of seizure shall be annexed, and shall contain an accurate and detailed inventory of the goods and chattels, and a legal description of the lands and tenements which shall have been seized.

Sheriffs to annex *procès verbal* of seizure to the return.

XIII. And be it further enacted, &c., that every person who shall have been, or shall have acted as sheriff or coroner for any district, and the heirs, executors, curators and other legal representatives of any such person, shall be and they are hereby enjoined and commanded forthwith to deliver and surrender unto the sheriff of the same district, all deeds or acts of sale of lands and tenements, which shall have been made by such person as sheriff or coroner, or transmitted to him by his predecessor in office, and all writs, public books, registers and papers appertaining to the office of sheriff or of coroner, as the case may be, in matters of a civil nature, which are or shall be in his or their possession, custody or power,—judgments of distribution, receipts and vouchers for the payment of money and other legal acquittances and discharges and rates for the discharge of prisoners always excepted,—together with a list or inventory of such deeds or acts, writs, books, registers and other papers, duly attested upon oath, by the person or persons delivering the same; and every person having been, or having acted as sheriff or coroner, and every heir, executor, curator, or other legal representative of such late sheriff or coroner, who shall refuse or wilfully neglect

Any person having acted as sheriff or coroner, to deliver all deeds of sale to the sheriff or coroner, for the time being.

to deliver and surrender all such deeds or acts of sale, writs, books, registers, and other papers, with such list or inventory thereof, according to the true intent and meaning of this Act, and shall be thereof lawfully convicted, shall forfeit and pay the sum of five hundred pounds, currency, one moiety of which shall go to His Majesty, His Heirs and Successors, and the other moiety to the person or persons that shall sue for the same, by civil action in any court of record having jurisdiction in such matters.

Penalty.

Sheriffs, &c., at sales, not permitted to become purchasers.

XIV. And be it further enacted, &c., that no sheriff, deputy-sheriff, coroner, bailiff, or other officer employed by any sheriff or coroner at the sale or adjudication of any moveables or effects, lands or other real property, shall, directly or indirectly, become the purchaser (*adjudicataire*) of any moveables, effects, lands or other real property, by him sold, under pain of nullity of such adjudication, and of all costs, damages and interests towards the parties.

Sheriffs to have the custody of gaols.

XV. And be it further enacted, &c., that all sheriffs shall have the custody and keeping of all gaols within their respective districts, and shall appoint the gaolers or keepers of such gaols, for whose acts, and the conduct of such gaolers, the said sheriff shall be liable.

Sheriffs to make rules for the interior police of the gaols.

XVI. And be it further enacted, &c., that the several sheriffs having the custody of gaols in this Province, shall, from time to time, make general rules and regulations, and shall submit the same for revision and approval, to the courts of King's bench for the districts of Quebec, Montreal and Three Rivers, respectively, if in term, or to any two or more of the judges of the said courts, respectively, in vacation, and to the judges of the provincial courts in the inferior district of Gaspé and district of Saint Francis, respectively, whether in term or vacation, as the case may be, for the interior order and police of the gaols situate within their respective districts or inferior districts, and for regulating the conduct of gaolers and other officers and ministers of justice, in the keeping and governing of gaols, and also for the safe custody, due care, and sufficient protection of all prisoners for debt therein being; and all gaolers and other officers and ministers of justice, concerned in the keeping and government of gaols within the said districts or inferior district, severally and respectively, shall observe the said rules and regulations.

See Tables.

To be liable in cases of escape from connivance or neglect only.

XVII. And be it further enacted, &c., that the several sheriffs and coroners in this Province, shall be liable only in damages and interests, for escapes of prisoners for debt happening through connivance or neglect, either from the custody of themselves or their deputies or bailiffs, or from any gaol or gaols of which any sheriff shall have the custody and keeping, according to the directions of this act.

Sheriffs to account upon oath.

See Tables.

XVIII. And be it further enacted, &c., that every sheriff in this Province shall, on the first juridical day in every term of the courts of King's bench holding civil pleas in the districts of Quebec, Montreal and Three Rivers, respectively, and of the provincial courts of the inferior districts, for which he shall be sheriff, exhibit an accurate and detailed statement and account, upon oath, of all monies in his hands by him received as sheriff, when and from whom received, and of all orders and judgments directing any monies to be paid by such sheriff since his last account rendered, specifying to whom the said monies are or were payable,—of all monies paid by him as sheriff, within the said period, and to whom,—and of all monies remaining unpaid, though ordered and adjudged to be paid, and

of the reasons why the same have not been paid ; and the said statements and accounts shall be deposited and remain among the public records of the said court, and shall be entered in a book or register, which shall be kept for that purpose, by the prothonotary or clerk of such court, as the case may be.

XX. And be it further enacted, &c., that every sheriff exhibiting the statements and accounts required of him by this act, who shall knowingly and wilfully swear falsely in any matter where an oath is by this act authorized and required to be administered, shall be liable to suffer, upon conviction thereof, the pains and penalties by law imposed for wilful and corrupt perjury. Penalty for swearing falsely.

XXI. And be it further enacted, &c., that the fines and penalties levied by virtue of this act, shall be reserved for the public uses of the Province, and shall remain at the future disposal of the provincial parliament, and shall be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury for the time, in such manner and form as His Majesty, His Heirs and Successors shall direct. Fines and penalties how appropriated and accounted for.

XXII. And whereas great injury and heavy losses have been frequently sustained by persons engaged in trade and commerce, from the seizure of rafts and timber, at the suit of paupers, raftsmen, and others pretending claims thereon, which seizures have been, after a long and expensive litigation, set aside and annulled ; and whereas from the want of distinguishing marks upon, and from the number of rafts and timber lying and being at all seasons, in the several coves and harbours within the different districts and inferior districts of this Province, no sufficient means exist for ascertaining the legal property and ownership in such rafts and timber, for the due and proper execution of process against such rafts and timber :—For remedy thereof, be it therefore further enacted, &c., that no sheriff of any of the districts or inferior districts of this Province shall be bound to proceed to the execution of any writ of attachment, (*arrêt simple*) or writ of *revendication*, or of any writ of execution against any raft or timber, until such sheriff shall have been furnished by the party or parties suing out such process with a bond of indemnity, with two good and sufficient securities, to the satisfaction of one of the justices of His Majesty's court of King's bench or provincial judge, for the district or inferior district, conditioned to secure and hold him harmless against all damages and costs to result from such seizure. How sheriffs are to proceed before the seizure of rafts. See Tables.

XXIII. And whereas the seizure and custody of rafts and timber, more particularly when afloat, is attended with considerable risk and expense, inasmuch as a number of guardians are requisite to ensure the safe-keeping of such rafts and timber :—Be it therefore enacted, &c., that from and after the passing of this act, it shall and may be lawful for the sheriff before executing such seizure, under any process to him directed, to demand and receive in advance from the plaintiff or plaintiffs, his or their attorney or attorneys *ad litem*, such sum as shall by any one of the justices of His Majesty's court of King's bench for the district, or provincial judge of the inferior district where such process shall issue, be deemed sufficient for the safe-keeping of such raft or timber : Provided always, that when and as often as the sum so advanced shall have been expended, it shall be lawful for such sheriff, upon presenting a summary petition to any one of the justices aforesaid, to obtain an order upon such party for the payment in advance of such further sum as by the said justice, for the purpose aforesaid, shall be deemed sufficient, service of which said petition and order shall in each and every instance be made upon the attorney *ad litem*, appearing for Sheriffs may require a sum of money to enable them to secure the rafts of timber so seized. See Tables. Proviso.

such party ; in default of which payment, within twenty-four hours from and after the service of such petition and order, the said seizure shall be discharged, and such sheriff exonerated from all liability to any person or persons whomsoever.

Form of advertisements of sales of real property.

XXIV. And whereas the forms of advertisement for sheriff's sales now in use are unnecessarily long, and highly expensive to defendants :—For remedy thereof, be it further enacted, &c., that from and after the passing of this act, the sheriffs and coroners of the several districts of this Province shall advertise the sales of immoveable property, by them to be made, according to the form in the annexed schedule, A., which advertisements shall be printed consecutively under one heading, in the form prescribed in and by the said schedule, A.

Sheriffs may, on receiving any writ, &c., demand a certain sum in advance.

Proviso.

XXV. And be it further enacted, &c., that it shall and may be lawful for the said sheriffs, on receipt of any writ of *feri facias de terris*, writ of *venditioni exponas*, or *alias* writ of *feri facias*, to demand and have from the person or persons presenting the same, the sum of twenty shillings, current money of this Province, and no more, in advance, to enable him or them to defray the expenses of publication or otherwise ; any law, usage or custom to the contrary notwithstanding : Provided nevertheless, that when it shall be desired by the party at whose instance the seizure shall have been made, a concise statement of the charges subject to which the said land or immoveable property is to be sold, shall be inserted in such advertisement immediately after the description of the said land or immoveable property.

How sheriffs are to proceed where more than one plaintiff or defendant is named in any writ for the sale of any lands.

XXVIII. And be it further enacted, &c., that when there shall be more than one plaintiff, or more than one defendant, mentioned in any writ under the authority of which lands and tenements shall be advertised for sale by any sheriff or coroner of this Province, or when the plaintiff shall sue as tutor, or the defendant shall be sued as tutor to the minor children of any person deceased, it shall be sufficient that the sheriff or coroner advertising in such case, do mention the first plaintiff and first defendant in such writ named, stating always that there are other plaintiffs or other defendants, as the case may be, or the name of the firm, if there be one, and that he state generally, in the other case, that such tutor is tutor to the minor children of the persons deceased, without specifying at length the names of such minor children.

SHERIFF'S SALES—SCHEDULE A.

“ To wit : ”—

“ Public notice is hereby given, that the undermentioned lands and tenements have been seized and will be sold, at the respective times and places as mentioned below ; all persons having claims on the same, are hereby required to make them known according to law : All oppositions *afin d'annuller*, *afin de distraire*, or *afin de charge*, except in cases of *venditioni exponas*, to which no such oppositions are by law allowed, are required to be filed with the undersigned, at his office, previous to the fifteen days next preceding the day of sale ; oppositions *afin de conserver* may be filed at any time within two days next after the return of the writ.

“ No.

Fieri facias.

“ A. B., of the city of _____, in the county of _____, in the district of _____, against C. D., of _____, in the county of _____, in the district of _____ (*as the case may be*) , (*insert*

"the description of the land or other immoveable property, the parish,
"seignior or township, and the county and district in which the same
"is situate,) in the county, &c., bounded, &c. To be sold, at
" , on the day of , at
"o'clock in the morning; the said writ returnable on the
"day of next.

" A. B., Sheriff. "

" No. *Venditioni exponas.*
" No. *Alias fieri facias.*"

21. POLICE IN TOWNS.

An Act more effectually to provide for the regulation of the Police in the Cities of Quebec and Montreal, and the Town of Three-Rivers, and for other purposes therein mentioned. 57 Geo. III.
Cap. 16.

WHEREAS the rules and orders heretofore made touching the police, and also those for the government of apprentices and others, have been productive of much public benefit; and it being expedient and right that the same be continued and more ample provision made for extending the benefits arising from a well regulated police:—Be it therefore enacted, &c., that the justices of the peace, in their general quarter sessions of the peace for the districts of Quebec, Montreal and Three-Rivers, respectively, shall be, and they are hereby authorized and empowered from time to time, to frame such rules and orders, and with such fines and penalties for the breach thereof, as shall be judged requisite and proper for the regulation of the police of the respective cities of Quebec, Montreal and town of Three-Rivers, and also from time to time, to alter and amend the same; and all such rules and orders when so framed, or so altered and amended, shall, before having effect, be submitted to the inspection and revision of the justices of the court of King's bench in the said districts, respectively, who are hereby authorized, in term and during the sitting of the said courts, whether civil or criminal, to confirm or reject the same; and the same, when so framed and confirmed, and duly published as hereinafter provided, shall be binding and obligatory upon all and every person or persons within the city or town where they are intended to have operation: Provided always, that no fine or penalty thereby imposed shall exceed the sum of five pounds, current money of this Province, except in the case where an addition thereto may arise, by reason of the expense of performing any service or work as hereinafter mentioned: And provided also, that no such rule or order shall be repugnant to any law of this Province, nor to the duties of any of the public officers thereof.

Preamble.

Justices of the peace, in quarter sessions, may frame rules and orders of police.

But see Tables.

To be submitted to the court of King's bench.

Amount of fine limited.

Proviso.

II. Provided always, and be it further enacted, &c., that before any such rule or order shall have effect as aforesaid, a copy thereof in French and English shall be fixed and posted up on the door of the parish church of the cities of Quebec and Montreal and town of Three-Rivers, respectively, and in such public places, and published in such newspapers printed in the said cities, respectively, as the said justices of the peace shall order; and that the said rules shall not have any force until ten days after the publication thereof: and that when such rules and orders so made, altered or amended, shall have been published as aforesaid, due proof of such publication shall be made by affidavit, or the *visu voce* examination of witnesses, or otherwise,

Public notice to be given before the said rules and orders shall take effect.

But see Tables.

to the satisfaction of two or more of the justices of His Majesty's court of King's bench for the said districts of Quebec and Montreal, respectively, or of the provincial judge of His Majesty's court of King's bench for the district of Three-Rivers, who shall, respectively, thereupon cause an entry to be made of record in His Majesty's court of King's bench for the said districts of Quebec, Montreal and Three-Rivers, respectively, that such proof of publication was so made, and indorse upon or subscribe to a copy of such rules or orders so made, altered, or amended, a certificate that such proof has been so made of the publication thereof; and that after such entry on record, and the granting of such certificate as aforesaid, it shall not be necessary in any case to make proof of the publication of such rule or order; but that such entry on record shall, in all cases, stand and be deemed and taken to be conclusive and public proof of such publication, without giving the same in evidence, upon any prosecution founded on such rules or orders, or other occasion whatsoever.

Penalty on persons refusing to perform any service or work to which they may be liable.

See Tables.

III. And be it further enacted, &c., that in every case where any person or persons, after twenty-four hours notice in writing left at the dwelling house of such person or persons, shall refuse or neglect to do, or cause to be done, any service or work, which by any rule or order made, approved and published as aforesaid, he, she or they may be required to do, it shall and may be lawful for any of the justices of the peace, before whom the complaint shall be brought, to direct the surveyor of roads, or a constable, to employ some other person for a reasonable consideration, to perform such service or work so refused or neglected to be done; and the person who shall have disobeyed such rule or order, shall, over and above the penalty annexed to the breach of the same, pay such reasonable sum as shall have been allowed to the person who performed the service or work, in his, her, or their stead; which additional sum shall be levied in like manner as hereinafter is provided, in respect to the penalties for offences against this act.

Justices empowered to make rules for the government of apprentices, and of their masters and mistresses.

But see Tables.

VI. And be it further enacted, &c., that from and after the passing of this act, it shall and may be lawful for the justices of the peace, and they are hereby authorised, in the terms of the general quarter sessions of the peace held in the districts of Quebec, Montreal and Three-Rivers, respectively, to make rules and regulations to restrain, rule and govern the apprentices, domestics, hired servants and journeymen within their respective districts, and also to make rules and regulations for the conduct of masters and mistresses towards their said apprentices, domestics, hired servants and journeymen; which said rules and regulations shall not have force and effect, until they shall have been approved by the judges of the court of King's bench, or any two of them, for the districts of Quebec, Montreal and Three-Rivers, respectively: Provided always, that nothing herein contained shall be understood to give power or authority to the said justices of the peace, in virtue of the rules and regulations which they are hereby authorised to make as aforesaid, to inflict upon the said masters or mistresses, a penalty exceeding ten pounds, current money of this Province, and upon the said apprentices, domestics, hired servants and journeymen, for the breach or contravention by them committed against the said rules and regulations, a greater fine than ten pounds, current money of this Province, or two months imprisonment in the house of correction in the respective districts aforesaid: And provided also, that the said rules and regulations shall be subject to the same formalities, rules and provisions as are prescribed respecting the rules of police.

Penalties, amount limited.

Rules subject to certain formalities.

VII. And be it further enacted, &c., that the mode of proceeding in all cases of complaint respecting the said apprentices, domestics, hired servants and journeymen, and their masters and mistresses, shall be by summons, to cause the party complained of to come before the said justices of the peace to answer the complaint, except where the party complaining shall make oath before a justice of the peace, that he or she has reason to believe that the person complained of, being his or her apprentice, domestic, hired servant or journeyman duly bound or hired, is about to leave the town, to desert or secrete himself, or has in fact left the house or the town, or has already deserted or secreted himself; in which case it shall be lawful for the justice of the peace before whom such oath has been made, to grant his warrant for the apprehending and holding to bail such apprentice, domestic, hired servant or journeyman, until the parties can be heard and the matter complained of determined; which hearing and determination, in cases of arrest, shall not be delayed longer than forty-eight hours from the time the person so arrested shall be brought before the justice of the peace, unless a longer time shall be granted, at the request of either party, for the production of proof, or other sufficient cause to be allowed by the justice of the peace before whom the complaint shall be brought: And in case the said apprentice, domestic, hired servant or journeyman, so apprehended, shall not offer bail for his or her appearance to answer to the said complaint, it shall be lawful for any one justice to commit him or her to the gaol in gaol for safe custody, until he or she find bail, or until the cause be heard and determined; any law, usage or custom to the contrary in anywise notwithstanding.

Mode of proceeding to compel parties to appear.

A different mode in certain cases.

But see Tables.

IX. And be it further enacted, &c., that the justices of the peace of the said districts of Quebec and Montreal are hereby authorized and required, in their general quarter sessions or special sessions, to make such regulations for the government of the hay-market in the said cities of Quebec and Montreal, the weighing of all hay brought thereto and sold there, and all hay sold by the hundred bundles or any larger or smaller number of bundles, and also the rate or price to be taken for weighing hay at the aforesaid weigh-house, and by whom the same shall be paid, and such other regulations as may be found necessary and useful respecting the same.

Justices to make rules for the government of the hay market of the cities of Quebec and Montreal.

See Tables.

X. And whereas the pernicious vice of gaming has become extremely prevalent in public houses in this Province, to the evil example of the rising generation and the ruin of individuals:—Be it therefore further enacted, &c., that from and after the passing of this act, if any person licensed to sell spirituous liquors, by retail, or to keep a house of public entertainment within this Province, shall knowingly suffer any gaming in any house, out-house, apartment or ground belonging to or in his or her occupation, for money, liquor, or otherwise, either with cards, dice, draughts, shuffle-board, skittles, nine-pins, or with any other implement or in any other manner of gaming, by any journeyman, apprentice, labourer or servant, and shall be convicted thereof, on the confession or by the oath of one credible witness, before one justice of the peace, if in the villages or country parishes, within fifteen days after the offence committed, or before the justices of the peace in their court of weekly sittings, if in the cities of Quebec and Montreal, or town of Three-Rivers, such person, or persons so offending shall forfeit and pay for the first offence the sum of forty shillings, current money of this Province, and for the second offence the sum of five pounds, current money of this Province, and be deprived of his, her or their licence, and also of being incapable of

Penalty on tavern-keepers suffering gaming in their houses.

* *Sic. But the repetition does not occur in the French.*

Proviso: not to alter the act 41 Geo. 3. Cap. 13.

Who shall be deemed a competent witness.

Appeal allowed.
See Tables.

On giving sufficient security.

Penalties incurred for offences against this act, how, and before whom to be recoverable.

obtaining a licence to retail spirituous liquors or to keep a house of public entertainment for the space of one year; and if any journeyman, labourer, servant or apprentice shall game in any of the places or in the manner aforesaid, and shall be convicted thereof, before any justice of the peace in the villages or country parishes, or by any justice of the peace in the villages or country parishes,* or before the justices of the peace in their court of weekly sittings in the cities of Quebec or Montreal, or town of Three-Rivers, by the oath of one credible witness, or by confession, he shall forfeit and pay for every such offence, a sum not exceeding twenty shillings, current money of this Province, and not less than five shillings, current money of this Province; and in default of payment of such fine or penalty within six days, such journeyman, labourer, servant or apprentice shall be committed to the house of correction for a space of time not exceeding eight days; in discharge of such fine or penalty as aforesaid: Provided always, that nothing in this act contained shall be construed or intended to alter or in anywise change or interfere with the provisions or clauses of an act passed in the forty-first year of His present Majesty's reign, intituled, *An act for granting to His Majesty a duty on licensing billiard tables for hire, and for regulating the same.*

XI. And be it further enacted, &c., that in all actions, prosecutions, causes and proceedings relating to or concerning the execution of this present act, or of any order or regulation to be made in virtue of the same, any inhabitant residing within any city, town, place or district in this act mentioned or described, shall be a competent witness and be admitted to give evidence upon any action or prosecution as aforesaid, notwithstanding such inhabitant is charged with or liable to pay any rate or perform any duty or service by virtue of or under the authority of this act.

XII. And be it further enacted, &c., that upon all and every judgment to be made by any justices of the peace at their weekly or special sessions, it shall and may be lawful to appeal therefrom to the justices of the court of quarter sessions of the peace of the district where such judgment may be made, upon which appeal the full merits of the original complaint may be heard and adjudged: Provided always, that the appellant, before the allowance of any appeal as aforesaid, shall give good and sufficient security to pay the amount of the judgments appealed from, and costs as well on the original complaint as in the appeal.

XIII. And be it further enacted, &c., that all penalties incurred for offences against this act or any of the clauses thereof, (those cases which may occur in the villages or country parishes excepted,) and against any of the rules, orders or regulations of police within the cities of Quebec and Montreal and town of Three-Rivers, or against any of the rules, orders and regulations concerning apprentices, domestics, hired servants or journeymen, or their masters or mistresses, which shall be established by authority of this act, shall be prosecuted for and recovered, with the reasonable costs of such prosecution, before any two of His Majesty's justices of the peace of the district wherein the offence shall have been committed, in the weekly sittings of such justices of the peace, as directed by law to be held in the cities of Quebec and Montreal and town of Three-Rivers, or in special sittings thereof, which may be called for the purpose, where the matter may require a more prompt decision; and the aforesaid justices of the peace are hereby authorized and empowered to hear and determine all causes and complaints touching and respecting the regulations of police, or against any

of the rules, orders or regulations concerning apprentices, domestics, hired servants or journeymen, or their masters or mistresses, to be made as aforesaid, in a summary manner, on proof of the offence, either by voluntary confession of the party or parties accused, or by the oath of one or more credible witness or witnesses other than the informer, which oath all and every of the said justices of the peace are hereby empowered to administer; and one moiety of every such penalty, shall belong to the informer, and the other moiety be paid to the road treasurer, to be applied to the purposes of this act; and in all cases of non-payment of any judgment to be awarded *But see Tables.* by any of the justices aforesaid, the sum shall be levied by distress and sale of the offender's goods and chattels, by warrant under the hands and seals of the justices of the peace before whom the offence shall have been prosecuted, directed to a constable or peace officer, and the overplus of the money raised, after deducting the penalty and costs, shall be returned to such offender.

IV. And whereas it is expedient and proper to provide for the payment of costs on summary proceedings before His Majesty's justices of the peace *Justices of the peace to award costs.* out of session, or at any weekly session, or upon appeals to the general quarter session thereupon, by virtue of this act:—Be it therefore enacted, &c., that it shall and may be lawful to and for the justices of the peace for the said districts of Quebec, Montreal and Three-Rivers, respectively, before whom any such case may have been heard and determined, to award the costs which either of the parties shall have to pay the other, as they shall judge fit; and in case any person against whom any such costs shall be awarded by any such justice or justices of the peace, or by such court *But see Tables.* of quarter session, shall not pay such costs within seven days next after the same shall have been so awarded as aforesaid, it shall and may be lawful to and for any such justice or justices of the peace, whether in or out of session, to issue such execution for the same, as is hereinbefore directed with regard to such pecuniary fines, penalties or forfeitures as may be inflicted by virtue of this act.

XV. And be it further enacted, &c., that no person or persons whatsoever shall be liable to any prosecution for the breach of any rule or order for the regulation of the police, or rule, order or regulation concerning apprentices, domestics, hired servants or journeymen, or their masters or mistresses, within the cities of Quebec or Montreal, or the town of Three-Rivers, respectively, unless such prosecution shall be actually commenced within one calendar month next after the commission of the offence, or to any prosecution for the breach of any other rule or order which may be made under or by virtue of this act, unless such prosecution shall be actually commenced within two calendar months next after the commission of the offence. *Limitation of actions. But see Tables.*

An Ordinance for establishing an efficient system of Police in the Cities of Quebec and Montreal. *2 Vict. (1) Cap. 2.*

WHEREAS it is expedient to establish an efficient system of police in the cities of Quebec and Montreal, and to constitute offices of police, which, acting under the immediate authority of the civil secretary of the Governor of the Province of Lower Canada for the time being, shall direct and control the whole of such system of police within the said cities:—Be it therefore ordained and enacted, &c., that it shall and may be lawful for *Preamble. Governor, &c., may establish*

police offices in Quebec and Montreal, and appoint inspectors and superintendents of police for the said cities.

the Governor, Lieutenant-Governor or person administering the government of the said Province for the time being, to cause police offices to be established in the said cities, and by a commission under the great seal of the Province, to appoint fit and proper persons to be inspectors and superintendents of the police of the said cities, to execute the duties of justices of the peace at the said offices and in all parts of the said cities, together with such other duties as shall be hereinafter specified, or as shall be from time to time directed by such civil secretary, for the more efficient administration of the police within the limits of the said cities; and that the Governor or person administering the government of the said Province for the time being, shall and may remove the said inspectors and superintendents of police, if he shall see occasion so to do, and may, upon any vacancy in the said offices, by death, removal or otherwise, appoint other fit persons as inspectors and superintendents of the police for the said cities, to execute the duties aforesaid, in lieu of the persons making such vacancy; and that it shall be lawful for the Governor or person administering the government of the said Province, to appoint any person to be inspector and superintendent of the police, for either of the said cities, under and by virtue of this ordinance; and that it shall be lawful for any person so appointed, during the continuance of his appointment, to execute the duties of justice of the peace for the said cities, although he may not have any such qualification, by estate or property, as is or may be required by law in case of any other person being a justice of the peace for the said cities: Provided always, and it is hereby further ordained and enacted by the authority aforesaid, that no person appointed to be such inspector and superintendent of the police, shall act as a justice of the peace at any court of general quarter sessions.

Property qualification dispensed with.

But see Tables. Proviso.

Oath of office to be taken by inspector or superintendent.

II. And be it further ordained and enacted, &c., that every person to be appointed inspector and superintendent of the police of the said cities, by virtue of this ordinance, shall, before he begin to execute the duties of his office, take the following oath before a judge of Her Majesty's court of King's bench, that is to say:—

The oath.

"I, A B., do swear, that I will faithfully, impartially and honestly, according to the best of my skill and knowledge, execute all the powers and duties of a justice of the peace, under and by virtue of an ordinance passed in the second year of the reign of Queen Victoria, intituled, *An ordinance for establishing an efficient system of police in the cities of Quebec and Montreal.*"

A police force to be formed.

III. And be it further ordained and enacted, &c., that a sufficient number of fit and able bodied men shall, from time to time, by the directions of the said civil secretary, be appointed as a police force for the said cities, who shall be sworn, by the said inspectors and superintendents of the police, to act as constables for preserving the peace and preventing robberies and other felonies, and apprehending offenders against the peace; and the men so sworn, shall, within the said cities, have all such powers, authorities, privileges and advantages, and be liable to all such duties and responsibilities as any constable duly appointed now has, or hereafter may have by virtue of the laws of this Province, or any statutes made or to be made, and shall obey all such lawful commands as they may from time to time receive from the said inspector and superintendents of the police, for conducting themselves in the execution of their office.

IV. And be it further ordained and enacted, &c., that the said inspector and superintendent of police may, from time to time, subject to the approbation of the civil secretary, make such orders and regulations as they shall deem expedient, relative to the general government of the men to be appointed members of the police force under this ordinance, the places of their residence, the classification, rank and particular service of the several members, their distribution and inspection, the description of arms, accoutrements and other necessities to be furnished to them, and all such other orders and regulations relative to the said police force, as the said inspectors and superintendents of the police shall from time to time deem expedient, for preventing neglect or abuse, and for rendering such force efficient in the discharge of all its duties; and the said inspectors and superintendents of the police may, at any time, suspend or dismiss from his employment any man belonging to the said police force, whom they shall think remiss or negligent in the discharge of his duty or otherwise unfit for the same: And be it further ordained and enacted, that when any man shall be so dismissed or cease to belong to the said police force, all powers vested in him as a constable by virtue of this act, shall immediately cease and determine.

Inspector or superintendent may make orders and regulations for the government of such police force.

May suspend or dismiss men belonging to it.

V. And be it further ordained and enacted, &c., that if any victualler or keeper of any house, shop, room, or other place for the sale of any liquors, whether spirituous or otherwise, shall knowingly harbour or entertain any man belonging to the said police force, or permit such man to abide or remain in his or her house, shop, room, or other place, during any part of the time appointed for his being on duty, every such victualler or keeper as aforesaid, being convicted thereof before any two justices of the peace, shall for every such offence forfeit and pay such sum not exceeding five pounds, sterling money of Great Britain, as they shall think meet.

Penalty on victuallers, &c. harbouring policemen on duty.

VI. And it is further ordained and enacted, &c., that it shall and may be lawful for any man belonging to the said police force, during the time of his being on duty, to apprehend all loose, idle and disorderly persons whom he shall find disturbing the public peace, or whom he shall have just cause to suspect of any evil designs, and all persons whom he shall find lying in any field, highway, yard or other place, or loitering therein, and not giving a satisfactory account of themselves, and to deliver any person so apprehended, into the custody of the constable appointed under this ordinance who shall be in attendance at the nearest watch house, in order that such person may be secured until he can be brought before a justice of the peace, to be dealt with according to law.

Policemen when on duty, may apprehend loose and disorderly persons.

See Tables.

VII. And be it further ordained and enacted, &c., that if any person shall assault or resist any person belonging to the said police force, in the execution of his duty, or shall aid or incite any person so to assault or resist, every such offender, being convicted thereof before two justices of the peace, shall, for every such offence, forfeit and pay such sum, not exceeding five pounds, sterling money aforesaid, as the said justices shall think meet.

Penalty on persons resisting police.

VIII. And be it further ordained and enacted, &c., that it shall be lawful for any justice of the peace to commit all loose, idle and disorderly persons, being convicted before him by his own view, or by his, her or their own confession, or by the oath of one or more credible witness or witnesses, to the common gaol or house of correction, there to be kept at hard labour, for

Any justice of the peace may, on his own view, convict and commit loose and dis-

orderly persons brought before him. any time not exceeding two calendar months : Provided always, that it shall be in the discretion of the justice of the peace, before whom any person apprehended as a loose, idle and disorderly person shall be brought,

But see Tables.

Proviso.

either to commit or discharge such person, although an act of vagrancy be proved against the person so charged : Provided also, that it shall be in the discretion of such justice, on discharging such loose, idle and disorderly person, to bind him or her in a sufficient recognizance, to appear before the justices at their next general or quarter sessions of the peace, to answer such charge or charges as shall be alleged against him or her, respectively.

Who are to be deemed disorderly persons under this ordinance.

IX. And be it further ordained and enacted, &c., that persons who, being able to work, and thereby or by other means to maintain themselves and families, shall wilfully refuse or neglect to do so :

Persons openly exposing or exhibiting in any street, road, public place, or highway, any indecent exhibition, or openly and indecently exposing their persons :

Persons loitering in the streets or highways and obstructing passengers, by standing across the footpaths, or by using insulting language, or in any other way, tearing down or defacing signs, breaking windows, breaking door or door-plates, or the walls of houses, yards or gardens, destroying fences, causing a disturbance or noise in the streets or highways by screaming, swearing, or singing, being drunk, and impeding or incommoding the peaceable passengers,—

All common prostitutes or night walkers wandering in the fields, public streets or highways, not giving a satisfactory account of themselves,—

Persons in the habit of frequenting houses of ill-fame, not giving a satisfactory account of themselves,—

Persons tippling in taverns or tap-rooms, after the hour of ten at night and before the hour of five in the morning, between the twenty-first day of March and the first day of October, and after the hour of nine at night and before the hour of six in the morning, from the first day of October to the twenty-first day of March,—

Persons winning money or other valuable thing in playing at cards, dice or other chance game in taverns,—shall be deemed loose, idle and disorderly persons, within the meaning of this ordinance.

Justices of the peace may grant warrants to search houses suspected of harbouring disorderly persons.

X. And be it further ordained and enacted, &c., that it shall be lawful for any justice of the peace, upon information upon oath before him made, that any persons hereinbefore described are loose, idle and disorderly persons, and are, or are reasonable suspected to be harboured or concealed in any house or houses of ill-fame, tavern or taverns, boarding house or boarding houses, by warrant under his hand or seal to authorize any constable or other person or persons to enter at any time such house or houses, tavern or taverns, and to apprehend and bring before him or any other justice or justices, all persons found therein and so suspected as aforesaid and if on examining such person or persons so apprehended and brought as aforesaid, it shall appear to such justice or justices that they or any of them cannot give a satisfactory account of themselves, it shall and may be lawful for such justice or justices to commit him, her or them to the common gaol or house of correction, there to be dealt with in the same manner as loose, idle and disorderly persons are hereinbefore directed to be dealt with by this ordinance.

But see Tables.

Punishment of persons

XI. And be it further ordained and enacted, &c., that it shall be lawful for any justice of the peace to commit any person or persons being convicted

before him, by his own view or by the oath of one or more creditable witness overloading or or witnesses, or by his, her or their confession, of over-loading, over-driving otherwise ill-treating animals. or otherwise ill-treating any horse, dog or other animal, to the common gaol, for any time not exceeding one calendar month; and all constables shall and may apprehend such person or persons, and bring him, her or them before a justice of the peace, to be dealt with according to the provisions of this ordinance.

XII. And for the more effectual prosecution of offences punishable by a Justice may penalty, upon summary conviction by virtue of this ordinance :—Be it further enacted, &c., that where any person shall be charged on the oath of a credible witness with any such offence, before any justice of the peace, the justice may summon the person charged to appear before any two justices of the peace at a time and place to be named in such summons; and if the person charged shall not appear accordingly, then (upon proof of the due service of the summons, by delivering a copy thereof to such person or by delivering a copy to the wife or servant or some inmate of the family of such person, at his or her usual place of abode,) the justices before whom he ought to have appeared may either proceed to hear and determine the case *ex parte*, or may issue their warrant for apprehending such person, and bringing him or her before them: Provided always, that the prosecution for any offence punishable by a penalty upon summary conviction by virtue of this ordinance, shall be commenced within three calendar months after the commission of the offence and not otherwise. in certain cases prosecute and determine complaints against persons neglecting to appear. Proviso.

XIII. And be it further ordained and enacted, &c., that every sum which, by any justice of the peace, shall be adjudged to be paid for any offence against this ordinance, shall be paid to Her Majesty's receiver general, to be by him added to and applied as part of the funds for the purposes of the police under this ordinance; and no person shall, by reason of the application of any penalty to the use of the police funds, be deemed to be an incompetent witness before any court of justice or justices of the peace, in any proceeding whatever for any offence against this ordinance. Appropriation of fines. See Tables.

XIV. And be it further ordained and enacted, &c., that the justices of the peace by whom any person shall be convicted and adjudged to pay any sum of money, for any offence against this ordinance, may adjudge that such person shall pay the same either immediately or within such period as they shall think fit; and in default of payment at the time appointed, the said person shall be imprisoned in the common gaol or house of correction, for any term not exceeding two calendar months, which said imprisonment shall cease upon payment of the sum due. Justices may grant time for payment of penalty, and commit in default.

XV. And be it further ordained and enacted, &c., that no conviction, order, warrant or other matter made or purporting to be made by virtue of this ordinance, shall be quashed for want of form or be removed, by *certiorari* or otherwise, into any of Her Majesty's courts of record; and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same. No exception to be taken on account of want of form. But see Tables.

XVI. And be it further ordained and enacted, &c., that for the protection of the persons acting in the execution of this ordinance, all actions and prosecutions to be commenced against any person for any thing done in pursuance of this ordinance, shall be laid and tried in the district where the fact was committed, and shall be commenced within six calendar months after the fact Actions to be laid in the district and within six months.

- Notice.** committed, and not otherwise; and notice in writing of such action and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and in such action the defendant may plead the general issue, and give this ordinance and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into court after such action brought, by or on the behalf of the defendant; and if a verdict shall pass for the defendant, or the plaintiff shall become non-suit or discontinue any such action after issue joined, or if on demurrer or otherwise judgment shall be given against the plaintiff, the defendant shall recover his full costs, as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases; and though a verdict shall be given for the plaintiff in such action, such plaintiff shall not have costs against the defendant, unless the judge before whom the trial shall be, shall certify his approbation of the action and of the verdict obtained thereupon.
- General issue.**
- In what cases plaintiff shall not recover.**
- Verdict for defendant.**
- Plaintiff not to obtain costs but on certificate.**
- Governor may defray expense of police establishment out of unappropriated monies.** XVII. And be it further ordained and enacted, &c., that it shall be lawful for the Governor or other person administering the government of the Province for the time being, to pay or cause to be paid, out of any monies which may be in the hands of the receiver general of this Province, not otherwise appropriated by law, such sums as may be required for the maintenance of the police under this ordinance; and that all salaries, allowances and contingent charges in that behalf, shall be paid upon pay lists to be made out on the first of each month, by the inspector and superintendent of police, signed by him and approved by such civil secretary as aforesaid.
- See Tables.**
- Person acting as secretary to Governor.** XVIII. And be it further ordained and enacted, &c., that for the purposes of this ordinance, any person acting as secretary of the Governor, or of the person authorized to execute the commission of Governor, shall be taken to be the civil secretary of the Governor.
- Word "city" or "cities" how to be construed.** XIX. And be it further enacted, that for the purposes of this ordinance, the word *city* or *cities*, as applied to the cities of Quebec and Montreal, wherever used in this ordinance, shall be held to denote the said cities, together with such neighbouring districts as the Governor or person administering the government of the Province of Lower Canada, shall at any time direct.
- See Tables.**

22. POLICE IN BOROUGHS AND VILLAGES.

- 4 Geo. IV. Cap. 2. An act to repeal a certain Act therein mentioned, and to provide for the Police of the Borough of William Henry, and certain other Villages in this Province.
- Preamble.** WHEREAS it is expedient to repeal an act passed in the fifty-eighth year of the reign of His late Majesty, George the Third, intituled, *An act to provide for the police of certain boroughs and villages*, and to provide other enactments in lieu thereof:—Be it therefore enacted, &c., that the said act, &c., (58 Geo. 3. cap. 16) shall be, and the same is hereby repealed.
- 58 Geo. III. Cap. 16, cited, And repealed.
- Freeholders to meet and** II. And be it further enacted, &c., that from and after the passing of this act, the free-holders of the borough of William Henry, or of every other

borough or village in this Province, wherein there may be, within the space of fifteen arpents in superficies or less, the number of thirty inhabited houses at least, or within any greater extent of ground, a greater number of houses not more than half an arpent apart from each other, shall meet at such place and on such day, to be fixed by the senior justice of the peace residing at or nearest to such borough or village, by a public notice, read aloud and posted at the church door of the parish in which such borough or village shall be situate, on two Sundays or obligation holydays, immediately after divine service in the forenoon, which day for the meeting of the freeholders, shall not be sooner than fifteen days after such notice; and in case the nearest church shall not be within the distance of a league from any such borough or village, then such day for the meeting of the freeholders shall be notified in writing, and posted up at least at three of the most frequented places in such borough or village, and such meeting shall not be sooner than twenty-one days after such notice so given as aforesaid; and the said freeholders shall, at such meeting, proceed to the election of five freeholders, who shall be chosen by a majority of the votes of the freeholders, then and there present, to be trustees; and the said trustees, when chosen, shall possess the several powers hereinafter specified; and the said senior justice of the peace, or the eldest captain of militia residing in or nearest to the said borough or village, present at such meeting, shall preside thereat, and shall declare five persons then having the greatest number of votes, duly elected trustees, and shall prepare or cause to be prepared an *acte* thereof, and shall deposit such *acte* with the nearest notary, and of which every person concerned shall have a copy.

III. And be it further enacted, &c., that the trustees who shall have been so as aforesaid chosen, shall, after the day of their election as such, remain in office for two years, and no longer, and shall be replaced by an equal number of freeholders, chosen after the like notice, or appointed in the same manner as by this act is provided for the election or appointment of the trustees, who, after the passing of this act, are to be first chosen or appointed.

IV. Provided always, and be it further enacted, &c., that in case the said freeholders in the said borough of William Henry, or in any of the several villages in this Province, within the meaning of this act, shall not within the space of three calendar months after the passing thereof, proceed to the election of trustees as aforesaid, then it shall be the duty of the justices of the peace residing in the said borough, or in or near to any of the said villages, wherein the inhabitants shall not have proceeded to such election, or of any two of them, on a requisition in writing to that effect, signed by three freeholders of the said borough or village, to name and appoint the trustees for the purposes of this act, and of which it shall be the duty of the justices having named and appointed such trustees to give public notice, by an advertisement published in the manner as hereinabove described, for the assembling of the freeholders in the said borough or village, within fifteen days next after the day of such nomination and appointment; which trustees in such case so named, shall serve for two years, and shall be then placed in the manner directed by the third clause in this act.

V. And be it further enacted, &c., that the said trustees shall choose one from among themselves, to be an inspector in and for the said borough or villages, respectively; which said inspector shall cause to be executed the

choose trustees.

Time during which the trustees may continue in office.

Manner of proceeding in case freeholders do not meet to choose trustees.

Trustees to choose an inspector.

rules and regulations hereinafter provided, and shall, in case of delinquencies, prosecute for and recover the fines and penalties hereinafter provided and imposed; and in case of the absence of such inspector, any one of the said trustees is hereby authorised and empowered to perform the duties of the said inspector, during his absence as aforesaid.

Penalty on trustees and inspectors refusing to act.

VI. And be it further enacted, &c., that every proprietor in the said borough or villages as aforesaid, who, being elected or chosen as inspector, as well as the several trustees chosen or named, in the said borough or villages, who shall refuse or neglect to act as such inspector or trustees, shall incur and pay for each and every refusal or neglect, respectively, a sum not exceeding two pounds, currency, nor less than five shillings, currency.

Duty of inspectors as to public encroachments.

VII. And be it further enacted, &c., that it shall be the duty of the said inspectors, in the said borough and villages, respectively, to prohibit all public encroachments and nuisances on the streets, lanes, and public places thereof, of every description, by whomsoever committed, and to prosecute for the removal or abatement thereof.

Duty of inspector as to visiting houses, &c.

VIII. And be it further enacted, &c., that it shall be the duty of the inspector of the said borough or villages, to visit any houses, out-houses, or other buildings in the said borough or villages, when and as often as he may be informed of any offence against this act, having previously obtained a permission in writing to that effect, from any justice of the peace; and every proprietor or occupier of a house, out-house, or other building, who shall refuse admittance to the inspector, having such permission as aforesaid, into such house, out-house or other building, for the purpose aforesaid, between the hours of nine in the forenoon and four in the afternoon, shall incur a penalty of ten shillings, current money of this Province.

Trustees may fix on a market place.

IX. And be it further enacted, &c., that the said five trustees, or a majority of them, may, if they see fit, upon the requisition hereinafter mentioned, fix a market place, if there be not one already established in such borough or village, which shall not be changed during the continuance of this act.

Certain articles declared rules and regulations of police.

X. And be it further enacted, &c., that the following articles shall be taken and considered, and the same are hereby declared to be rules and regulations of police, for the said borough or villages, that is to say:—

See Tables.

Article First—All and every the proprietors of a house or houses in the aforesaid borough or villages, shall, from and after the passing of this act, place or cause to be placed a ladder or ladders on the roof of their respective houses, near to or adjoining the chimney or chimneys, and another ladder reaching from the ground to the roof of each and every of their respective houses as aforesaid, under the penalty of five shillings for every neglect so to do, and of ten shillings, currency, for each and every week during which they shall neglect to provide themselves with such ladder or ladders, as aforesaid.

Article 2nd.

Second—All and every householder or householders in the said borough or villages, shall, from and after the passing of this act, be held to furnish and provide himself or themselves, with two buckets, fit and proper for carrying or conveying water in case of accident by fire, under the penalty of two shillings and six pence, for each bucket which may be deficient; and every such householder as aforesaid shall be bound and obliged to provide himself with a battering ram, eight feet in length by five inches in

diameter, to be kept in the garret of each and every house as aforesaid, under a penalty of five shillings, for each and every week during which they shall neglect so to provide themselves therewith.

Third—Any person or persons who shall enter into any barn, out-house or stable, within the limits of the aforesaid borough or villages, with a candle or lamp, without having the same well enclosed in a lantern, shall, for every such offence, incur a fine and penalty of five shillings, current money aforesaid; and any person or persons who shall enter into any barn, stable or out-house, within the limits of the aforesaid borough or villages, with a lighted pipe or cigar, or carry any fire not properly secured, into such barn, stable or out-house, shall, for every such offence, incur a penalty of five shillings, currency. Article 3rd.

Fourth—No person or persons in the said borough or villages, shall be allowed to light or have a fire in any wooden house or out-house of any description, within the limits of the aforesaid borough or villages, unless the same be in a chimney or in a stove of iron or other metal, under a penalty of five shillings, currency, for each offence. Article 4th.

Fifth—All and every person or persons who shall carry or convey fire into or through any street, lane, place, yard or garden in the said borough or villages, or cause fire to be carried or conveyed, without having the same confined in some copper, iron, or tin vessel, shall, for every such offence, incur a forfeiture and penalty of two shillings and six pence, currency, and for every such offence of a like nature, a further forfeiture and penalty of five shillings, currency. Article 5th.

Sixth—Any person or persons who shall put, or cause to be put or placed any hay, straw or fodder, in any dwelling house, within the limits of the said borough or villages, shall incur a penalty of five shillings, currency, for the first offence, and a penalty of ten shillings, currency, for every week during which they shall neglect to remove the said hay or straw from the said dwelling-house. Article 6th.

Seventh—That it shall not be lawful for any baker, potter, brewer, manufacturer of pot and pearl ashes, or any other person, to build, make or cause to be built and constructed, any oven or furnace within the limits of the aforesaid borough or villages, unless the same adjoin a chimney of stone or brick, which chimney shall rise at least three feet higher than the house or building in which the said oven or furnace may be, under a penalty which shall not exceed ten shillings, currency; and for non-compliance with this regulation, the offender shall incur a penalty of fifteen shillings, currency, for each week during which he shall neglect to comply therewith. Article 7th.

Eighth.—All and every person or persons who shall keep or have gunpowder for sale in the said borough or villages, shall keep the same in boxes of copper, tin, or lead; and for every omission or neglect so to do, such person or persons shall incur a penalty of twenty shillings, for the first offence, and of forty shillings for every subsequent offence. Article 8th.

Ninth.—Any person or persons in the said borough or villages, who shall sell or permit to be sold, at night, in his or their houses, store-houses or shop, out-house or other building, gunpowder, shall, on being thereof convicted, incur a forfeiture and penalty of forty shillings, currency, for the first offence, and of three pounds, currency, for every subsequent offence. Article 9th.

Tenth.—All and every person or persons on horseback or in any calash, cart or other vehicle, who shall go at gallop, or at greater speed than an Article 10th.

ordinary trot, within the limits of the said borough or villages, shall, for every such offence, incur a penalty of five shillings, currency.

Article 11th. *Eleventh*—All and every person or persons who shall throw, or cause to be thrown any filth, rubbish, or ordure, into any of the streets, lanes, or public places within the limits of the aforesaid borough or villages, shall, for every such offence, incur a penalty of two shillings and six-pence, currency, and of five shillings, currency, for every week during which they shall neglect to remove the same, after notification to that effect by the inspector, or by some other person authorised by him for that purpose.

Article 12th. *Twelfth*—It shall not be lawful for any person in the said borough or villages, to conduct any stove-pipe through any wooden or lathed partition, or through any floor, unless there be a space of six inches between the pipe and the partition or floor; the pipe of every stove shall be inserted in a chimney, and there shall be left at least ten inches in the clear, between the said stoves and wooden or lathed partitions; and each and every person offending against this regulation, shall incur a penalty of ten shillings, currency.

Article 13th. *Thirteenth*—No person or persons shall erect, or cause to be erected, any furnace for making charcoal of wood within the limits of the said borough or villages, under a penalty of twenty shillings, currency.

Article 14th. *Fourteenth*—Any person who shall light a fire in any of the streets, lanes, or public places of the said borough or villages by this act intended, shall, for every such offence, incur a penalty of five shillings, currency.

Article 15th. *Fifteenth*—Any person or persons who shall, in the borough or villages aforesaid, keep or deposit any ashes or cinders of any kind, (ashes in the possession of manufacturers of pot and pearl ashes excepted,) in any wooden vessel, box or other thing not lined or doubled with sheet iron, tin or copper, so as to prevent all danger of fire or combustion from such ashes or cinders, shall, for every such offence, incur a fine and penalty of five shillings, currency.

Article 16th. *Sixteenth*—Any person or persons who shall, in the borough or villages aforesaid, place or deposit any quick or unslaked lime in any house, out-house or building, so that such lime may be in contact with or touch any wood thereof, whereby there may be any danger of fire or combustion, shall, for every such offence, incur a penalty of five shillings, currency, and a further penalty of ten shillings, currency, for each day, until such lime shall be removed or secured to the satisfaction of such inspector, and in such manner as not to cause any accident by fire.

Article 17th. *Seventeenth*—Any person who, through negligence, shall permit any hog or hogs, horse or horses, goat or goats, sheep or other cattle to him belonging, at any time, or poultry during the summer, to stray at large in any of the streets, lanes or public places within the limits of the borough or villages aforesaid, shall incur a penalty of one shilling, currency, for each offence, as aforesaid.

Penalties to be sued for within ten days. XI. And be it further enacted, &c., that the penalties and forfeitures appointed by this act, shall be sued for within ten days after the offence for which they shall have been incurred, and not afterwards.

Penalties how recoverable. XII. And be it further enacted, &c., that all penalties and forfeitures, incurred by any person or persons resident or living in the aforesaid borough or villages, shall be sued for and recovered by the said inspector in and for the said borough or villages, by information before any one justice of the

peace of the district, residing in or near to the said borough or villages, if any there be, or else before any other justice of the peace within the county, provided the distance from the said borough or villages do not exceed five leagues, who shall hear and determine such information in a summary manner, and upon the oath of one credible witness, being other than the informer, and shall cause such penalty or forfeiture to be levied by warrant to seize and sell the goods of the offender; and the whole of such penalty or forfeiture shall go to and be applied to the repairs and improvement of the streets, avenues and lanes of the said borough or villages by the said inspector and trustees.

XIII. And be it further enacted, &c., that any inspector or trustee of the said borough or villages, who shall neglect or omit to fulfil any of the duties imposed upon the said inspector and trustees, shall, on being thereof convicted in manner aforesaid, incur a forfeiture and penalty of five shillings, current money of this Province.

XIV. And be it further enacted, &c., that if any person convicted under this act in virtue of this act, shall think himself aggrieved by such conviction, he may appeal therefrom to the next court of general quarter sessions for the district in which such conviction shall have been obtained; provided he do first deposit the money forfeited upon such conviction into the hands of the justice of the peace before whom such conviction shall have been made; and if such conviction be reversed, the money so deposited shall be restored to the appellant; but if the same shall be affirmed, the said money shall be paid over to the aforesaid inspector or trustees, or to such person as they shall appoint, for the purposes aforesaid.

XV. And be it further enacted, &c., that separate copies of the articles hereinabove enacted and provided shall, forthwith after the passing of this act, be printed and distributed as the laws enacted in this Province are printed and distributed throughout the same; and a copy of the said articles shall, by the rector or curé of each parish, be delivered over to and remain with the church-warden on duty, (*en charge*) for the time being, to be preserved among the papers of the *fabrique*; and it shall be the duty of the church-warden on duty (*en charge*) to read, or cause the same to be publicly read, to the end that the public may have a full and perfect knowledge of the said articles, on three successive Sundays immediately succeeding the day upon which he shall have received a copy of the said articles, immediately after divine service in the forenoon.

An Act to revive, amend and continue for a limited time, a certain Act concerning the Police of William Henry and other Villages.

WHEREAS it is expedient to revive, amend and continue, for a limited time, a certain act passed in the fourth year of the reign of His late Majesty George the Fourth, chapter two, intituled, *An act to repeal a certain act therein mentioned, and to provide for the police of the borough of William Henry and certain other villages in this Province*, which said act hath expired:—Be it therefore enacted, &c., that the said act &c., (4 Geo. 4, cap. 2,) and all the clauses, provisions, powers, authorities, directions and regulations therein contained, shall be and the same are hereby revived, and shall be and remain in full force and authority until the

Appropriation of penalty.

Penalty on inspectors and trustees neglecting their duties.

Persons aggrieved may appeal.

Proviso.

Separate copies of the articles provided by this act, to be distributed as the law directs, and to be read and preserved.

6 Will. IV. Cap. 46.

Preamble.

4 Geo. IV. Cap. 2, cited.

And continued, revived, amended.

effects which it may be necessary to send along with such prisoner, for the purposes of justice, to or towards the common gaol of the county or district; and every person having a carriage and horse, shall be bound to obey such order.

Penalty on refusal.

III. And be it further enacted, &c., that any captain, officer or sergeant of militia, who shall refuse to accompany or assist a constable or peace officer, in conveying a prisoner or prisoners charged as aforesaid, to or towards a common gaol, and any person having a carriage and horse as aforesaid, who shall neglect or refuse, when ordered as aforesaid, to furnish the same for the conveyance of such prisoner or prisoners, to or towards such gaol, shall for every such offence, forfeit, being a commissioned officer, a sum not exceeding forty shillings, currency, and every non-commissioned officer, or militiaman, a sum not exceeding twenty shillings, currency, to be recovered in a summary manner, upon complaint, hearing and conviction before any justice of the peace, on the testimony of one or more credible witness or witnesses; and such penalty if not paid within twenty-four hours after conviction, shall be levied, together with costs, by distress and sale of the goods and chattels of the party convicted.

How enforced.

Distance to which an officer of militia is bound to go.

IV. Provided always, and be it further enacted, &c., that no such officer or sergeant of militia, nor the carriages or horses of persons who shall be commanded to furnish the same, as aforesaid, shall be bound or compelled to go farther than the residence of the nearest captain or other commissioned officer belonging to the next company of militia, being such peace officer as aforesaid, living on or near the most direct or shortest route towards the prison to which such prisoner or prisoners are to be conveyed.

Penalties how disposed of.

V. And be it further enacted, &c., that one moiety of the penalties imposed and to be levied by virtue of this act, shall go to the informer, and the other moiety shall go to His Majesty, His Heirs or Successors, and shall be paid to the receiver general of this Province, for the public uses thereof, and shall be accounted for to His Majesty, His Heirs or Successors, through the lords commissioners of the treasury, as His Majesty, His Heirs or Successors shall direct.

25. ARMS, SEIZURE AND DETENTION OF.

2 Vict. (2).
Cap. 2.

An Ordinance to authorize the seizing and detaining for a limited time, of Gunpowder, Arms, Weapons, Lead, and Munitions of War.

Preamble.

WHEREAS it is necessary, during the insurrection and rebellion now existing within the district of Montreal, to prevent gunpowder, arms, lead or other materials for making or casting musket bullets, weapons and munitions of war from being acquired by or conveyed to the disaffected and rebellious within this Province:—Be it therefore ordained and enacted, &c., that from and after the passing of this ordinance, it shall and may be lawful for any justice of the peace, magistrate, or other person or persons whomsoever, by any of them authorized, subject or subjects of Her Majesty, to take possession of, seize and detain any gunpowder, arms, lead, or other materials for making or casting musket bullets, weapons and munitions of war in the possession of any person or persons whomsoever within this Province, save and except such as are or may be in the hands and pos-

Justices of the peace may seize and detain arms, &c., unless in possession of H. M.'s forces.

session of Her Majesty's forces, or of Her Majesty's officers, or of persons holding the same under the authority of Her Majesty's government, and to enter in, into and upon any dwelling house, building of any kind whatsoever, lands and tenements, to search for the same, and there to seize, attach and detain the same; and that it shall be the duty of the justice, magistrate, or other person or persons by any of them authorized, so seizing or taking, or causing to be arrested and taking away, such gunpowder, arms, lead or other materials for making or casting musket bullets, weapons and munitions of war, to convey the same or cause the same to be conveyed to the police office in the cities of Montreal and Quebec and town of Three-Rivers, respectively, and to the office of the clerk of the peace in the village of Sherbrooke, as the case may be, or to some military post within the said district, respectively, and to deliver them there, to the end that the same may be secured and disposed of in such manner as the authorities, civil or military, then and there being, may determine.

May enter any dwelling-house &c. to search for same.

How to be disposed of.

II. And be it further ordained and enacted, &c., that any person or persons who shall resist or otherwise impede any such justice of the peace, magistrate, peace officer, or other person or persons whomsoever, subjects of Her Majesty, in the due execution of the provisions of this ordinance, shall be guilty of a misdemeanor, and being thereof convicted on the oath of two witnesses before any justice of the peace, shall be committed to the common goal, without bail or mainprize, for the space of three calendar months.

Punishment of persons resisting magistrates or officers.

26. INDICTMENTS, TRAVERSING OF.

An Ordinance to abolish the practice of permitting Defendants to Traverse Indictments for misdemeanors, before Courts of Oyer and Terminer, in this Province.

2 Vict. (3).
Cap. 23.

WHEREAS the practice which has obtained of permitting defendants to traverse indictments, before courts of oyer and terminer in this Province, has led to delays and abuses inconsistent with the proper and impartial administration of justice, and it is expedient and necessary to remedy such evil:—Be it therefore ordained and enacted, &c., that from and after the passing of this ordinance, it shall not be lawful for any defendant or defendants, against whom any indictment or indictments for any misdemeanor shall be found, before any court of oyer and terminer to be hereafter holden within the said Province, to traverse any such indictment or indictments; but that in all such cases of indictment or indictments for misdemeanor, the defendant or defendants shall plead to the indictment or indictments, and be tried at and during the same session of such court of oyer and terminer in which such indictment or indictments shall be found, unless good and sufficient cause be shewn by such defendant or defendants for putting off any such trial; any law, usage or statute to the contrary hereof in any wise notwithstanding.

Preamble.
Defendants to plead and be tried during term in which the indictment shall be found.

See Tables.

27. CAPITAL CASES, COUNSEL ALLOWED IN.

An Act to authorise Counsel to address Jurors in behalf of Prisoners in Capital Cases.

5 Will. IV.
Cap. 1.

WHEREAS it is expedient that persons accused of capital crimes be entitled to plead by counsel:—Be it therefore enacted, &c., that

Preamble.
See Tables.

Counsel may address jurors in behalf of prisoners in capital cases.

any prisoner accused of any capital crime, may, in all cases, employ the ministry of any advocate or counsel in his defence, which said advocate or counsel may address the jurors on the behalf of the prisoner, in the same manner as in any other prosecution or accusation for any crime or misdemeanor whatsoever.

28. WITNESSES BEFORE GRAND JURORS, SWEARING OF.

41 Geo. III.
Cap. 7.

An Act for the more easy administration of Oaths to Witnesses before the Grand Jury.

Preamble.

The foreman of the grand jury empowered to administer the usual oath to witnesses.

WHEREAS it will contribute to the dispatch of business in courts of criminal jurisdiction, that oaths to witnesses before the grand jury should be administered without recurring to the court for that purpose:—Be it therefore enacted, &c., that from and after the passing of this act, it shall and may be lawful, in all courts of criminal jurisdiction, to and for the foreman of the grand jury, and he is hereby empowered and required to administer, in the presence of the grand jury, the usual oath to such persons as shall appear as witnesses before the grand jury; and such oath so administered shall be as valid and binding in law, as if the same had been administered by the court; any law or usage to the contrary notwithstanding.

29. CROWN WITNESSES, PAYMENT OF.

39 Geo. III.
Cap. 9.

An Act for repealing certain Acts granting rates and duties to His Majesty, and for granting new and additional duties in lieu thereof, and for appropriating the same towards defraying the expenses of the administration of Justice and support of the Civil Government within this Province, and for other purposes therein mentioned.

Preamble.

WHEREAS the raising and collecting of the rates and duties imposed on goods imported or brought into this Province, by an act of the parliament of Great Britain, of the fourteenth year of the reign of His present Majesty, chapter eighty-eight, and by two acts of the legislature of this Province, of the thirty-third year, chapter eight, and of the thirty-fifth year, chapter ninth, of His present Majesty, would be simplified, the revenue benefited and commerce promoted, by consolidating and bringing the said rates and duties into one law:—Be it therefore enacted, &c., that as soon as, &c., (*Sections 1 to 23, inclusive, are not in force. See Tables.*)

Allowance to poor and needy persons to be paid out of the fines, &c., that may be received.

But see Tables.

XXIV. And whereas no fund is hitherto provided in this Province, to defray the expenses and loss of time of poor and needy persons, subpœnaed or bound by recognizance to give evidence in the courts of King's bench and general quarter sessions of the peace, touching any felony or misdemeanor, and it being necessary to make provision for the same:—Be it further enacted, &c., that it shall and may be lawful for the court, when any such person shall appear on recognizance or subpœna, to give evidence as aforesaid, to order the clerks of the crown and of the peace, in their respective districts, to pay from and out of the fines, penalties and forfeitures,

which they may or shall respectively receive, to every such poor and needy person, such sum as the court shall think reasonable, not exceeding the expenses he or she was *bond fide* put unto, making also a reasonable allowance for his or her trouble and loss of time; which sum the clerks of the crown and of the peace aforesaid, upon the production of the said order, shall respectively forthwith pay, and the same shall be allowed and sustained in the respective accounts of the said clerk of the Crown or clerk of the peace; any law or usage to the contrary notwithstanding: And in case the fines, penalties and forfeitures aforesaid, shall not be found sufficient for paying and defraying the expenses and loss of time of poor and needy persons, appearing on subpoena or recognizance as aforesaid, there shall be issued and paid out of the said general fund of the Province, such further sum to the said several clerks for the said districts, as shall appear to be owing and due to them respectively, after their accounts shall have been approved by the Governor, Lieutenant-Governor or person administering the government for the time being, in His Majesty's executive council.

And if the fines, &c., are not sufficient, to be charged upon the general fund.

An Ordinance to amend an Act of the Legislature of this Province, intituled, *An Act for repealing certain Acts granting rates and duties to His Majesty, and for granting new and additional duties in lieu thereof, and for appropriating the same towards defraying the expenses of the administration of Justice and support of the Civil Government within this Province, and for other purposes therein mentioned.* 2 Vict. (3). Cap. 56.

WHEREAS it is expedient to amend the twenty-fourth section of an act of the legislature of this Province, passed, &c., (39 Geo. 3. cap. 9.):—

Be it therefore ordained and enacted, &c., that in the case of every person subpoenaed on behalf of the Crown, or bound by recognizance to give evidence in the courts of King's bench, courts of oyer and terminer or general gaol delivery, and general quarter sessions of the peace, touching any felony or misdemeanor, it shall and may be lawful for any of such courts, or for any judge or justice of any such court, in which any such person shall appear by virtue of any such subpoena or under any such recognizance to give evidence as aforesaid, to order the sheriff for its district to pay out of the monies which shall and may be advanced to such sheriff as aforesaid for that purpose, out of any unappropriated monies in the hands of the receiver general of the said Province, by warrant of the Governor, Lieutenant-Governor, or person administering the government thereof, to every such person such sum of money as the court, judge, or justice thereof shall think reasonable, not exceeding the expenses he or she was *bond fide* put unto, making also a reasonable allowance for his and her trouble and loss of time, which sum the sheriffs aforesaid, upon the production of the said order, shall respectively forthwith pay, and the same shall be allowed and sustained in the respective accounts of the said sheriff; any statute, law or usage to the contrary notwithstanding: Provided always, that any such court, judge or justice shall not make any such order in the behalf aforesaid, unless the attorney general, solicitor general of the said Province, or other prosecuting officer on the part of the Crown, or clerks of the peace, prosecuting felonies in the several courts of quarter sessions of the peace, for and on behalf of the Crown, shall have certified, upon the account made by such person for his or her trouble and loss of time as aforesaid, that the charges therein con-

Preamble.

Crown witnesses in cases of felony or misdemeanor, to be paid their expenses by the sheriff, upon an order from the court.

No order to be given unless the account of the witness be certified by the Crown law officers or clerks of the peace.

tained are reasonable, and unless such person claiming the amount of charges stated in his or her account in the behalf aforesaid, shall make affidavit before such court, judge or justice, that the said charges are true and correct, and that unless the same be paid he or she will sustain loss.

Sheriff to render account of the monies advanced to him.

II. And be it further ordained and enacted, &c., that the sheriff to whom any monies shall be advanced under the authority of this ordinance, shall render such account, and support the same by such vouchers, and transmit it at such time, as the Governor or person administering the government, shall direct; and the due application of all such monies shall be accounted for to Her Majesty, Her Heirs and Successors, through the lords commissioners of the treasury, in such manner and form as Her Majesty, Her Heirs and Successors shall direct.

30. PEACE OFFICERS, APPOINTMENT OF.

27 Geo. III.
Cap. 6.

An Ordinance to explain and amend an Ordinance for establishing Courts of Criminal Jurisdiction in the Province of Quebec.

Certain militia officers to be peace officers in the country parishes.

See Tables.

WHEREAS it is expedient that public officers should be established in the several parishes of this Province, under the denomination of peace officers:—It is enacted and ordained, &c., that all and every the captains and other inferior officers of militia in the said several parishes of this Province, duly commissioned by His Excellency the Governor or the Commander-in-chief, for the time being, and likewise the serjeants named and appointed by the said captains and other officers within their respective parishes, be and they are hereby declared to be public and peace officers within their respective parishes, and authorised and enjoined to do and exercise all and singular the duties and services of public and peace officers, within their respective parishes, according to law.

Peace officers to be appointed for the towns.

See Tables.

II. And be it further enacted, &c., that it shall be lawful for the commissioners or justices of the peace, assembled in quarter sessions, or a majority of the same, and they are hereby required, as soon as conveniently may be, to name and appoint such and so many persons as they may think sufficient, within the towns and *banlieues* of Quebec and Montreal, for carrying into execution the orders and decrees of the several courts, and to preserve the public peace therein; every of which persons so appointed shall faithfully perform the duties of the offices for which he may be so appointed for the space of one year,—previous to the expiration whereof, it shall be the duty of the said commissioners or justices of the peace, annually to appoint others to serve in their stead,—and to increase or diminish the number first appointed, as to them shall appear to be most for the public weal and safety; and that no such appointment shall be valid in Quebec or Montreal and their *banlieues*, respectively, in the case of a civil or military officer, or any person in priest's orders, or in the profession or practice of physic and surgery, or any miller, ferry-man, school-master or student of any college or seminary, or any person not of full age. And for neglecting or refusing to perform the said office or offices, there shall be the forfeiture of twenty pounds, to be recovered in any court of record, with costs of suit, by bill, plaint or information, in which no *essoine*, *wager of law*, or any more than one *imparlance* shall be allowed.

An Act to extend to the Town of Three-Rivers, certain provisions contained in an Ordinance passed in the twenty-seventh year of His late Majesty's Reign, intituled, *An Ordinance to explain and amend an Ordinance for establishing Courts of Criminal Jurisdiction in the Province of Quebec.* 1 Geo. IV. Cap. 15.

WHEREAS it is expedient and necessary to extend to the town of Three-Rivers, certain provisions contained in an ordinance passed, &c. Preamble.
 (27 Geo. 3. cap. 6.) :—Be it therefore enacted, &c., that all the provisions contained in the aforesaid ordinance passed in the twenty-seventh year of His late Majesty's reign, intituled, *An ordinance to explain and amend an ordinance for establishing courts of criminal jurisdiction in the Province of Quebec*, which relate to the appointment of constables within the towns of Quebec and Montreal, shall, from and after the passing of this act, have force and effect within the town of Three-Rivers, in the same manner and as fully as if the said town of Three-Rivers had been specially named and included in the aforesaid ordinance. Provisions of 27 Geo. 3. Cap. 6, extended to the town of Three-Rivers.

31. FEES TO PERSONS EMPLOYED BY JUSTICES OF THE PEACE.

An Act to regulate the Fees of persons employed by Justices of the Peace in the country Parishes, as Clerks or Bailiffs, in certain cases.—(*Temporary.*) 6 WILL. IV. Cap. 19.

WHEREAS the want of a tariff for the persons performing the duty of clerks, and for the bailiffs and constables employed by the justices of the peace in the country parishes, gives rise to many abuses and to acts of extortion, and it is expedient to provide a remedy therefor :—Be it therefore enacted, &c., that no individual acting as clerk to any justice of the peace in the country parishes, shall at any time, or under any pretext whatsoever, demand or require higher fees than those hereinafter mentioned, that is to say :— Preamble.
Fees to the clerks of justices of the peace in the country parishes.

- For drawing up a deposition, two shillings and six pence, currency ; See Tables.
- For drawing up a warrant, two shillings and six pence, currency ;
- For drawing up a bail bond, two shillings and six pence, currency ;
- For making out a *committimus*, two shillings and six pence, currency ;
- For a summons, one shilling and six pence, currency ;
- For each copy, six pence, currency ;
- For a *subpœna*, one shilling, currency ;
- For each copy, six pence, currency ;
- For the entry of a final judgment, one shilling and three pence, currency ;
- For a copy thereof, one shilling and three pence, currency ;
- For a warrant of execution, one shilling and three pence, currency ;
- For each copy of any entry made in the register kept by such magistrate, at the rate of six pence, currency, for every hundred words : Provided always, that the person performing the duty of the clerk shall not require any payment for any paper he may prepare in any criminal prosecution (where assaults and batteries excepted,) and shall under the dictation and order of the justice of the peace, keep the register of such justice of the peace, without being entitled to any remuneration for so doing ; and such clerk shall likewise, at his own cost (either by employing a person to do Proviso.

the duty of crier, or otherwise,) cause order to be maintained during the sittings of the court, and shall execute all the orders which shall be made by any such justice of the peace in that behalf.

Fees to bailiffs and constables. II. And be it further enacted, &c., that no bailiff or constable employed to execute the orders of any justice of the peace, shall, at any time, or under any pretext whatever, demand or require higher fees than those hereinafter mentioned, that is to say :—

For executing any warrant of arrest, five shillings, currency, and two shillings and six pence, currency, for his assistant, (*recors*);

For a seizure and sale under execution, the publication included, seven shillings and six pence, currency, and two shillings and six pence, currency, for his assistant ;

And for a seizure only, not followed by a sale, one-half of the said fees ;

For the service of any summons, *subpœna*, or order, one shilling and three pence, currency, and one shilling, currency, for each league travelled to serve the same, the distance in returning not to be reckoned ;

For each official return of illegal resistance, two shillings and six pence, currency, and one shilling and three pence, currency, for his assistant.

Proviso. Provided always, that whenever any bailiff or constable shall serve several summons' or *subpœnas* for the same complainant, at the same time and on the same road, he shall only be entitled to travelling expenses as far as for one journey, and the fees for the services.

Penalty on persons contravening this act. III. And be it further enacted, &c., that every person who shall contravene this act, shall be liable to a penalty not exceeding five pounds, currency, recoverable in a summary way before any justice of the peace of the district on legal proof, and whereof one moiety shall go to the prosecutor, with reasonable costs, and the other moiety shall belong to His Majesty, for the public uses of the Province, and shall be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury, in such manner and form as His Majesty, His Heirs and Successors shall be pleased to direct.

Justices of the peace may appoint constables. IV. And be it further enacted, &c., that it shall be lawful for any justice of the peace to appoint one or more constables, if need shall be, to execute the orders of such justice of the peace, to which constables such justice of the peace is hereby empowered to administer the requisite oath, which shall be enregistered in the register of such justice of the peace.

Clerks, &c., not to represent the parties. V. And be it further enacted, &c., that no such clerk or person performing the duty of clerk, no bailiff or constable executing the orders of a justice of the peace, shall in any manner represent either of the parties, or plead before such justice of the peace, under a penalty of twenty shillings, currency, to be recovered and applied in the manner mentioned in the third section of this act.

Duties of the bailiffs of the King's bench. VI. And be it further enacted, &c., that all bailiffs of the court of King's bench shall, by virtue of this act, be authorized to execute all orders of justices of the peace within their respective districts, without its being necessary that they should be appointed constables.

Not to prejudice fees already established. VII. And be it further enacted, &c., that the fees or emoluments established by this act, shall not in any wise prejudice or affect the fees or emoluments now especially established or which shall be so hereafter, by any act of the provincial parliament concerning the duties and services of clerks, constables or bailiffs above mentioned.

32. ACTIONS FOR PENALTIES, LIMITATION OF.

An Act for limiting the time during which Penal Actions may be brought in the Courts of this Province. 52 Geo. III.
Cap. 7.

WHEREAS the want of a law limiting the time during which penal actions may be brought in this Province, may cause the most serious inconveniences and daily occasion grievous suits against His Majesty's subjects in this Province, and abuses which it is essentially necessary to prevent:—Be it therefore enacted, &c., that from and after the passing of this act, all actions, suits or informations which shall be brought or exhibited in this Province for any forfeiture on any statute or law penal, made or to be made, whereby the forfeiture is or shall be limited to the King, His Heirs or Successors only, shall be brought or exhibited within two years next after the offence committed or to be committed against such statute or law penal, and not after two years; and that all actions, suits or informations which, from and after the passing of this act, shall be brought or commenced for any forfeiture upon any penal statute or law, made or to be made, the benefit and suit whereof is or shall by the said statute or law be limited to the King, His Heirs or Successors and to any other person who shall prosecute in that behalf, shall be brought or commenced by such other person that may lawfully sue for such forfeiture as aforesaid, within one year next after the offence committed or to be committed against the said statute or law; and in default of any action or suit by such person, that then the same shall be brought or instituted for the King, His Heirs or Successors, at any time within two years after that year ended; and if any action, suit or information for any offence against any penal statute or law, made or to be made, shall be brought after the time in the behalf limited as aforesaid, that then the same shall be void and of no effect; any law made to the contrary notwithstanding. Preamble.
Limitation of
actions, suits
or informa-
tions.

II. Provided always, that nothing herein contained shall extend or be construed to extend, to prolong or extend in any manner the time or delay for the commencement of any action or suit in virtue of any penal statute which has fixed or prescribed, or might hereafter fix and prescribe, a shorter time than that hereby limited. Proviso.

33. RETURNS OF PROSECUTIONS BEFORE JUSTICES OF THE PEACE.

An Act to regulate the manner in which the Justices of the Peace are annually to account for Fines and Penalties, by them imposed and levied pursuant to Law, and for other purposes. 4 Geo. IV.
Cap. 19.

WHEREAS it is expedient to regulate the manner in which the justices of the peace shall proceed in cases of convictions, and shall annually account for the fines by them imposed, levied and received, according to law:—Be it therefore enacted, &c., that the said justices of the peace throughout this Province, shall, from and after the passing of this act, be bound to keep, in a register to be by them severally provided for the purpose, true and faithful minutes or memorandums at length of every conviction which shall at any time hereafter be by them severally made, pursuant to any law or statute in force in this Province. Preamble.
Justices of the
peace to keep a
register of con-
victions.

the duty of crier, or otherwise,) cause order to be maintained during the sittings of the court, and shall execute all the orders which shall be made by any such justice of the peace in that behalf.

Fees to bailiffs and constables. II. And be it further enacted, &c., that no bailiff or constable employed to execute the orders of any justice of the peace, shall, at any time, or under any pretext whatever, demand or require higher fees than those hereinafter mentioned, that is to say :—

For executing any warrant of arrest, five shillings, currency, and two shillings and six pence, currency, for his assistant, (*recors*);

For a seizure and sale under execution, the publication included, seven shillings and six pence, currency, and two shillings and six pence, currency, for his assistant ;

And for a seizure only, not followed by a sale, one-half of the said fees ;

For the service of any summons, *subpœna*, or order, one shilling and three pence, currency, and one shilling, currency, for each league travelled to serve the same, the distance in returning not to be reckoned ;

For each official return of illegal resistance, two shillings and six pence, currency, and one shilling and three pence, currency, for his assistant.

Provido.

Provided always, that whenever any bailiff or constable shall serve several summons' or *subpœnas* for the same complainant, at the same time and on the same road, he shall only be entitled to travelling expenses as far as for one journey, and the fees for the services.

Penalty on persons contravening this act.

III. And be it further enacted, &c., that every person who shall contravene this act, shall be liable to a penalty not exceeding five pounds, currency, recoverable in a summary way before any justice of the peace of the district on legal proof, and whereof one moiety shall go to the prosecutor, with reasonable costs, and the other moiety shall belong to His Majesty, for the public uses of the Province, and shall be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury, in such manner and form as His Majesty, His Heirs and Successors shall be pleased to direct.

Justices of the peace may appoint constables.

IV. And be it further enacted, &c., that it shall be lawful for any justice of the peace to appoint one or more constables, if need shall be, to execute the orders of such justice of the peace, to which constables such justice of the peace is hereby empowered to administer the requisite oath, which shall be enregistered in the register of such justice of the peace.

Clerks, &c., not to represent the parties.

V. And be it further enacted, &c., that no such clerk or person performing the duty of clerk, no bailiff or constable executing the orders of a justice of the peace, shall in any manner represent either of the parties, or plead before such justice of the peace, under a penalty of twenty shillings, currency, to be recovered and applied in the manner mentioned in the third section of this act.

Penalty.

Duties of the bailiffs of the King's bench.

VI. And be it further enacted, &c., that all bailiffs of the court of King's bench shall, by virtue of this act, be authorized to execute all orders of justices of the peace within their respective districts, without its being necessary that they should be appointed constables.

Not to prejudice fees already established.

VII. And be it further enacted, &c., that the fees or emoluments established by this act, shall not in any wise prejudice or affect the fees or emoluments now especially established or which shall be so hereafter, by any act of the provincial parliament concerning the duties and services of clerks, constables or bailiffs above mentioned.

32. ACTIONS FOR PENALTIES, LIMITATION OF.

An Act for limiting the time during which Penal Actions may be brought in the Courts of this Province. 52 Geo. III.
Cap. 7.

WHEREAS the want of a law limiting the time during which penal actions may be brought in this Province, may cause the most serious inconveniences and daily occasion grievous suits against His Majesty's subjects in this Province, and abuses which it is essentially necessary to prevent :—Be it therefore enacted, &c., that from and after the passing of this act, all actions, suits or informations which shall be brought or exhibited in this Province for any forfeiture on any statute or law penal, made or to be made, whereby the forfeiture is or shall be limited to the King, His Heirs or Successors only, shall be brought or exhibited within two years next after the offence committed or to be committed against such statute or law penal, and not after two years; and that all actions, suits or informations which, from and after the passing of this act, shall be brought or commenced for any forfeiture upon any penal statute or law, made or to be made, the benefit and suit whereof is or shall by the said statute or law be limited to the King, His Heirs or Successors and to any other person who shall prosecute in that behalf, shall be brought or commenced by such other person that may lawfully sue for such forfeiture as aforesaid, within one year next after the offence committed or to be committed against the said statute or law; and in default of any action or suit by such person, that then the same shall be brought or instituted for the King, His Heirs or Successors, at any time within two years after that year ended; and if any action, suit or information for any offence against any penal statute or law, made or to be made, shall be brought after the time in the behalf limited as aforesaid, that then the same shall be void and of no effect; any law made to the contrary notwithstanding. Preamble.
Limitation of
actions, suits
or informa-
tions.

II. Provided always, that nothing herein contained shall extend or be construed to extend, to prolong or extend in any manner the time or delay for the commencement of any action or suit in virtue of any penal statute which has fixed or prescribed, or might hereafter fix and prescribe, a shorter time than that hereby limited. Proviso.

33. RETURNS OF PROSECUTIONS BEFORE JUSTICES OF THE PEACE.

An Act to regulate the manner in which the Justices of the Peace are annually to account for Fines and Penalties, by them imposed and levied pursuant to Law, and for other purposes. 4 Geo. IV.
Cap. 19.

WHEREAS it is expedient to regulate the manner in which the justices of the peace shall proceed in cases of convictions, and shall annually account for the fines by them imposed, levied and received, according to law :—Be it therefore enacted, &c., that the said justices of the peace throughout this Province, shall, from and after the passing of this act, be bound to keep, in a register to be by them severally provided for the purpose, true and faithful minutes or memorandums at length of every conviction which shall at any time hereafter be by them severally made, pursuant to any law or statute in force in this Province. Preamble.
Justices of the
peace to keep a
register of con-
victions.

Senior justices
to keep the minutes.

But see Tables.

Clerks of the
peace to keep
registers.

II. And be it further enacted, &c., that in all cases which are cognizable by any two or more justices of the peace, the minutes or memorandums of convictions by this act required shall be kept by the senior justice of the peace, and be subscribed by the junior justice of the peace who shall have been present during the proceedings which may have been had : Provided always, that in the cities of Quebec and Montreal, and in the town of Three-Rivers, the registers which by this act are ordained and directed to be kept, shall be kept by the clerks of the peace in the said cities and town, respectively, as heretofore, and who shall account for the fines which may be imposed according to law, by the justices of the peace in either of the said cities or town, respectively.

Costs to be
specified in the
register.

III. And be it further enacted, &c., that all the costs allowed in every such case shall also be specified in such register, as well as the day when execution shall have been issued to levy such costs and condemnation, and the day when the fine shall have been paid into the hands of such justice of the peace, pursuant to such condemnation ; and the amount of the fine and costs shall be distinctly specified in every writ of execution that may issue in any such case.

Justices to pay
over to the
clerks of the
peace the
amount of the
fines by them
levied.

See Tables;

IV. And be it further enacted, &c., that the justices of the peace aforesaid, shall annually, in the month of August, transmit and pay over into the hands of the clerks of the peace in their respective districts, the amount of all fines and penalties by them respectively levied and received, save and except such parts thereof as by law belong to informers ; and shall, at the same time, furnish such clerks of the peace with a statement specifying the several offences for which, as well as the several acts under which, they have been so incurred and levied ; which statements shall, by the said clerks of the peace, be laid before the justices of the peace in the general sessions of the peace, at the opening of each session, with a list of the justices of the peace from whom fines have been received, and specifying the amount received from each.

Duty of the
clerks of the
peace on receipt
of fines
and penalties.

V. And be it further enacted, &c., that it shall be the duty of the clerks of the peace in the several districts of this Province, on receipt of such fines and penalties, and statements to accompany the same, to pay the amount of all monies so by them received on the tenth days of April and October of each and every year, into the hands of the proper officer or officers, according to the direction of the several acts under which the same have been incurred and levied as aforesaid, taking duplicate receipts therefor, one of which they shall transmit to the inspector of provincial accounts : and they shall also state in writing the amount of such receipted payments, on the last day of every term of the court of general sessions of the peace, for the information of the justices of the peace thereat, and of all others whom it may concern.

Manner of
drawing up
convictions,
where no particular
form has been directed.
See Tables.

VI. And whereas great inconveniences often arise in summary proceedings before justices of the peace and others, from the want of a general form of conviction :—Be it therefore enacted, &c., that from and after the passing of this act, in all cases wherein a conviction shall have taken place, and no particular form for the record thereof hath been directed, the justice or justices before whom the offender or offenders shall have been convicted, shall and may cause the record of such conviction to be drawn up in the manner and form following, that is to say :—

"DISTRICT OF } Be it remembered, that on the
 "(or as the case may be.) } day of in the year of Our Lord
 "at in the county of A. B. of in the
 "county of labourer, (or as the case may be) personally came
 "before me (or before us) C. D. one (or more as the case may be) of His
 "Majesty's justices of the peace for the said and informed me
 "(or us) that E. F. of in the county of on the
 "day of at in the said did (*here set forth*
 "*the fact for which the information is laid*) contrary to the form of the
 "statute in such case made and provided; whereupon the said E. F., after
 "being duly summoned to answer the said charge, appeared before me (or
 "us) on the day of at in the said
 "and having heard the charge contained in the said information, declared
 "he was not guilty of the said offence, (*or, as the case may happen to be,*
 "did not appear before me (or us) pursuant to the said summons, (*or did neg-*
 "lect and refuse to make any defence against the said charge)—Whereupon
 "I (or, we) (*or, nevertheless I or we*) the said justice (*or justices*) did pro-
 "ceed to examine into the truth of the charge contained in the said inform-
 "ation, and on the day of aforesaid, at the parish of
 "aforesaid, one credible witness, to wit, A. W. of in the county
 "of upon his oath deposed and said (*if E. F. be present say, in*
 "the presence of the said E. F.) that within months (*or as the*
 "*case may be*) next before the said information was made before me (or
 "us) the said justice by the said A. B. to wit: on the day
 "of in the year the said E. F. at
 "in the said county of (*here state the evidence, and as*
 "*nearly as possible the words used by the witness; and if more than*
 "*one witness be examined, state the evidence given by each, or if the*
 "*defendant confess, instead of stating the evidence say,* and the said
 "E. F. acknowledged and voluntarily confessed the same to be true);
 "Therefore, it manifestly appearing to me (or us) that the said E. F. is
 "guilty of the offence charged upon him in the said information, I (or we)
 "do hereby convict him of the offence aforesaid, and do declare and adjudge,
 "that he, the said E. F., has forfeited the sum of of lawful money
 "of Great Britain (*or current money of this Province*) for the offence
 "aforesaid, to be distributed, (*or paid, as the case may be,*) according to
 "the form of the statute in that case made and provided. Given under my
 "hand (*or our hands*) and seal, the day of in the
 "year of Our Lord ."

The form.

VII. And be it further enacted, &c., that in all cases where two or more justices are authorised and required to hear and determine any complaint, one justice shall be competent to receive the original information or complaint, and to issue the summons or warrant requiring the parties to appear before two or more justices of the peace, as the case may require; and after examination upon oath into the merits of the said complaint, and the adjudication thereupon by any such two justices being made, all and every the subsequent proceedings to enforce obedience thereto or otherwise, whether respecting the penalty, fine, imprisonment, costs or other matter or thing now enacted or to be hereafter enacted, may be enforced by either of the said justices, or any other justice of the peace for the same county or place, in such and the like manner as if done by the same two justices who so heard and adjudged the said complaint; and where the original

In cases where two or more justices of the peace are authorized to hear complaints, one justice may receive the original information.

complaint of information shall be made to any justice or justices of the peace, different from him or them before whom the same shall be heard and determined, the form of conviction shall be made conformable and according to the fact.

Conviction, in certain cases, not to be set aside for defect of form.

VIII. And be it further enacted, &c., that in all cases where it appears by the conviction, that the defendant has appeared and pleaded, and the merits have been tried, and that the defendant has not appealed against the said conviction, where an appeal is allowed, or if appealed against, the conviction has been affirmed, such conviction shall not afterwards be set aside or vacated in consequence of any defect of form whatever, but the construction shall be such a fair and liberal construction as will be agreeable to the justice of the case.

2 Vict. (3).
Cap. 20.

An Ordinance for the better information of the Government and of the Public, concerning Prosecutions brought before Justices of the Peace.

Preamble.

Justices of the peace to make a quarterly return of prosecutions brought before them.

See Tables.

WHEREAS it will be conducive to the public good, that a record should exist shewing the general result of all prosecutions which shall have taken place before any one or more justices of the peace not sitting in general quarter sessions or in special sessions, at the court-house of any district or inferior district of this Province :—Be it therefore ordained and enacted, &c., that each justice of the peace shall make a quarterly return of every prosecution for any offence of a public nature, or for the recovery of any penalty imposed for any such offence, which shall have been brought before him, (whether sitting alone or with any other justice or justices,) at any other place than the court house of any district or inferior district of this Province ; and such return shall be sent to the clerk of the peace for the district, not more than ten nor less than five days before the holding of each court of quarter sessions, and shall be fyled of record by such clerk, and laid before the justices at such court ; and such return shall extend in the first instance, from the passing of this ordinance to the date of the return, and in all subsequent cases, from the date of the then last return to that of the return itself, and shall shew—

1. The justice or justices (if any,) sitting with the justice making the return.
2. The place of sitting.
3. The name of the prosecutor.
4. The name of the defendant.
5. The offence.
6. The result, whether conviction or acquittal.
7. The judgment and amount of penalty, if any.
8. The costs allowed to the successful party.
9. The costs allowed against the unsuccessful party, for any thing done at his instance in or about the prosecution.
10. The amount of penalty paid, and to whom.
11. The amount of penalty paid to the receiver general, or for any public purpose, or remaining to be so paid, and in whose hands.

And such return shall be dated at the time and place at which it shall be made, and signed by the justice who shall make it, and shall be made by each justice, whether any such prosecution shall have been brought before him or not, during the period over which it extends.

II. And be it further ordained and enacted, &c., that it shall be the duty of each clerk of the peace, within ten days after each term of the court of quarter sessions for his district, to return to the Governor, Lieutenant-Governor, or person administering the government of this Province, the name of each justice of the peace in such district, who shall not have complied with the requirements of this ordinance.

Clerks of peace to report justices who have not complied with this ordinance.

CLASS E.

Relating to Real Property and Rights.

1. Free and common soccage, lands in, transmission or conveyance of.
2. Wills.
3. Secret incumbrances.
4. Registration of titles, claims, &c.
5. Gaspé, titles to property in.
6. Letters patent for lands.
7. Lessors and leasees.
8. Lettres de terrier.

1. FREE AND COMMON SOCCAGE, LANDS IN, TRANSMISSION OR CONVEYANCE OF.

An Act for rendering valid Conveyances of Lands and other Immoveable Property held in Free and Common Soccage within the Province of Lower Canada, and for other purposes therein mentioned. 9 Geo IV.
Cap. 77.

WHEREAS, by an act made and passed in the imperial parliament of the United Kingdom of Great Britain and Ireland, in the sixth year of His Majesty's reign, intituled, *An act to provide for the extinction of feudal and seigniorial rights and burthens on lands held à titre de fief and à titre de cens in the Province of Lower Canada, and for the gradual conversion of those tenures into the tenure of free and common soccage, and for other purposes relating to the said Province*, it is amongst other things declared and enacted, "that all lands within the said Province of Lower Canada, which have heretofore been granted by His Majesty, or by any of His Royal Predecessors, to any person or persons, their heirs and assigns, to be holden in free and common soccage, or which shall or may hereafter be so granted by His Majesty, His Heirs and Successors, to any person or persons, their heirs and assigns, to be holden in free and common soccage, may and shall be by such grantees, their heirs and assigns, held, granted, bargained, sold, aliened, conveyed and disposed of and may and shall pass by descent, in such manner and form, and upon and under such rules and restrictions, as are by the law of England established and in force, in reference to the grant, bargain, sale, alienation, conveyance, disposal, or descent of lands holden by the like tenure therein situate, or to the dower or others rights of married women in such lands, and not otherwise; any law, custom or usage to the contrary notwithstanding;" subject nevertheless, to the following proviso, "that nothing in the said act contained shall extend to prevent His Majesty, with the advice and consent of the legislative council and assembly of the Province of Lower Canada,

Preamble.

Bul see Tables.

from making and enacting any such laws or statutes as may be necessary for the better adapting the before mentioned rules of the law of England, or any of, them, to the local circumstances and condition of the said Province of Lower Canada and the inhabitants thereof ;"—Whereas, also, by the forty-third clause of the act of the imperial parliament of Great Britain, of the thirty-first year of the reign of His late Majesty George the Third, chapter thirty-first, which enacts,—“that all lands which shall be hereafter granted within the said Province of Upper Canada, shall be granted in free and common soccage, in like manner as lands are now holden in free and common soccage in that part of Great Britain called England, and that in every case when lands shall be hereafter granted within the said Province of Lower Canada, and when the grantee thereof shall desire the same to be granted in free and common soccage, the same shall be so granted,”—it is expressly enacted,—“that the said lands so granted shall be subject nevertheless to such alterations, with respect to the nature and consequences of such tenure of free and common soccage, as may be established by any law or laws which may be made by His Majesty, His Heirs and Successors, by and with the advice and consent of the legislative council and assembly of the Province ;”—Whereas also, the object of the said act was to free the said lands from all seigniorial and feudal rents and charges to which the lands previously conceded had been subjected, by virtue of the deeds of concession which were before in use in this Province ; And whereas, should proprietors of lands granted in free and common soccage be deprived of the protection of the laws of this Province, and of the advantages resulting from the customs received and established with regard to real property, they should be exposed to the loss or diminution of the rights they have acquired and up to this day have exercised and enjoyed as attached to such lands or real properties, or to the possession of such lands so granted in free and common soccage ; And whereas divers inhabitants of this Province and others, are now seized and possessed of sundry lands and other immoveable property in free and common soccage, situate within the Province of Lower Canada, and hold the same by and in virtue of grants, bargains, sales, enfeoffments, alienations, gifts, exchanges, disposals, descents, devises, inheritance, right of dower or other conveyances, differing both in manner and form from such rules and restrictions as are by the law of England established in reference to such grants, bargains, sales, enfeoffments, alienations, gifts, exchanges, disposals, descents, devises, inheritance, right of dower or other conveyances ; And whereas it is necessary and expedient to make provision for quieting the lawful proprietors of such lands, and confirming to them the legal possession and enjoyment of the same, notwithstanding that such grants, bargains, sales, enfeoffments, alienations, gifts, exchanges, disposals, descents, devises, inheritance, right of dower or other conveyances, do or may differ from such rules and restrictions as are by the law of England established in reference to the same respectively ; And whereas it is also necessary and expedient to enact and declare in what manner such lands as are now holden, or shall or may hereafter be held in free and common soccage, within the limits of this Province of Lower Canada, shall and may hereafter be held, acquired, con-

All sales, conveyances, and other transfers of lands or other immoveable property held in free and com-

veyed or transferred :—Be it therefore enacted, &c., that all such grants, bargains, sales, enfeoffments, alienations, gifts, exchanges, disposals, descents, devises, inheritance, right of dower, or other alienation or conveyance whatsoever, by or in virtue of which any person or persons whomsoever are or shall be the proprietor or possessor of, or lay claim to be the proprietor and possessor of any lands or other immoveable property, heretofore granted in

free and common soccage within the Province of Lower Canada, and which may have been made and executed prior to the passing of this act, for the transfer, alienation, and conveyance of any such lands or other immoveable property, though not made and executed according to the rules and restrictions established by the law of England in reference to such grants, bargains, sales, enfeoffments, alienations, gifts, exchanges, disposals, descents, devises, inheritance, right of dower or other conveyances, shall be and are hereby declared to be as good and valid in law, to all intents and purposes whatsoever, as if they and each and every of them had been made and executed in conformity to such rules and restrictions as aforesaid,—provided always, that such grants, bargains, sales, enfeoffments, alienations, gifts, exchanges, disposals, descents, devises, inheritance, right of dower or other conveyances, and each and every of them, respectively, were at the time of making and executing the same, good and sufficient to operate as such grants, bargains, sales, enfeoffments, alienations, gifts, exchanges, disposals, descents, devises, inheritance, right of dower or other conveyances, under any law or usage in force in this Province at the time of making and executing the same,—and that as fully and amply to all intents and purposes as if the said rules and restrictions of the law of England had never been in force, or had not been so declared to govern and affect the transfer, alienation and conveyance of lands or other immoveable property so held in free and common soccage; any law, usage or custom to the contrary notwithstanding.

mon soccage, heretofore executed, to be good and valid, though not made according to the laws of England, &c.

Proviso.

II. And be it further enacted, &c., that from and after the passing of this act, all grants, bargains, sales, enfeoffments, alienations, gifts, exchanges, disposals, devises, or other conveyances of any lands or other immoveable property, now holden, or which may hereafter be held in free and common soccage, within the limits of the Province of Lower Canada, and which shall be duly made and executed, either upon and under such rules and restrictions as are by the law of England established and in force in reference to such grants, bargains, sales, enfeoffments, alienations, gifts, exchanges, disposals, devises, or other conveyances, or by deed or instrument in writing, duly made and executed by and before two notaries public, or by and before one notary and two witnesses, according to the laws and usages of the Province of Lower Canada, shall be equally good, valid and binding in law; anything in the aforesaid in part recited statute to the contrary thereof in any wise notwithstanding.

And all such sales, conveyances in transfers hereafter executed either according to the laws of England or of this Province, to be valid.

III. And be it further enacted, &c., that all mortgages and *hypothèques*, and all privileged claims of *bailleur de fonds* created, before the passing of this act, upon any lands or other immoveable property now holden in free and common soccage, and which were so made and created according to the forms, laws and usages of the Province of Lower Canada affecting other lands not holden in free and common soccage, shall be held and declared good and effectual in law to all intents and purposes whatsoever.

Mortgages, &c., created before the passing of this act on such lands, according to the laws of Canada, declared valid.

IV. And be it further enacted &c., that all mortgages and *hypothèques*, and all privileged claims, which shall or may be created from and after the passing of this act, upon any land or other immoveable property now holden or which shall or may hereafter be holden in free and common soccage, shall and may be made according to the forms, laws and usages of the Province of Lower Canada, provided that the lands so to be mortgaged or hypothecated, or upon which such privileged claim is so intended to be reserved, shall be specially set forth, and described in the instrument creating or re-

All mortgages, &c., created after the passing of this act, to be made according to the laws of this Province.

serving the same, and not otherwise; anything in the aforesaid in part recited statute to the contrary thereof in any wise notwithstanding.

Nothing in this act to prejudice the rights of bailleurs de fonds.

V. Provided always, and it is enacted, that nothing in this act contained shall be so construed as to prejudice in any manner whatsoever the rights of any persons by whom any real property may have been sold, (*bailleurs de fonds*) who shall always be allowed to demand and exercise their rights of preference of *hypothèque* and privileged claim upon the monies which shall form the consideration of any sale or transfer of any land or hereditament, although no stipulation to that effect, or express mention of such right, be made in the deed of sale or transfer of such land or hereditament.

Persons having died intestate of lands before the passing of this act, how such lands shall be partitioned.
See Tables.

VI. Provided always, and be it further enacted, &c., that when any proprietor of land granted or held in free and common soccage in this Province, shall have died before the passing of this act, without having partitioned the same, either by last will and testament or otherwise, the heirs of such proprietor shall be held to partition such land according to the old laws of the country, unless the said heirs should have agreed among themselves upon a different partition.

2. WILLS.

41 Geo. III.
Cap. 4.

An Act to explain and amend the Law respecting Last Wills and Testaments.

Preamble.

Clause in imp.
act 14 Geo.
3. recited.

See Tables.

Persons having the legal exercise of their rights, may devise or bequeath by last will and testament their estates, &c.

Provide, as to husbands and wives and parties who would hold in mortmain.

WHEREAS by the act of the fourteenth year of His Majesty's reign, intituled, *An act for making more effectual provision for the government of the Province of Quebec in North America*, it is enacted, that every owner of lands, goods or crédits in the said Province, who has a right to alienate the said lands, goods or credits in his or her lifetime, by deed of sale, gift or otherwise, may devise or bequeath the same at his or her death, by his or her last will and testament, any law, usage or custom heretofore or now prevailing in the said Province to the contrary hereof in anywise notwithstanding, such will being executed, either according to the laws of Canada, or according to the forms prescribed by the laws of England: And whereas doubts and difficulties have arisen in this Province, touching the true intent and meaning of the said act, in this respect:—Be it therefore enacted, &c., that it shall and may be lawful for all and every person or persons, of sound intellect and of age, having the legal exercise of their rights, to devise or bequeath by last will and testament, whether the same be made by a husband or wife, in favor of each other, or in favor of one or more of their children, as they shall see meet, or in favor of any other person or persons whatsoever, all and every his or her lands, goods or credits, whatever be the tenure of such lands, and whether they be, *propres*, *acquets* or *conquets*, without reserve, restriction or limitation whatsoever; any law, usage or custom to the contrary hereof in any wise notwithstanding: Provided always, that it shall not be lawful for a husband or wife making such last will and testament, to devise or bequeath more than his or her part or share of their community, or other property and estate which he or she may hold, or thereby to prejudice the rights of the survivor, or the customary or settled dower of the children: Provided also, that the said right of devising, as above specified and declared, shall not be construed to extend to a devise by will and testament, in favor of any corporation or other persons in mortmain, unless the said corporation or persons be, by law, entitled to accept thereof.

II. And whereas doubts have arisen touching the method now followed The method of
 of proving last wills and testaments, made and executed according to the proving wills.
 forms prescribed by the laws of England, before one or more of the judges
 of the courts of civil jurisdiction in this Province:—Be it therefore further
 enacted, that such proof shall have the same force and effect, as if made and
 taken before a court of probate.

3. SECRET INCUMBRANCES ON LANDS.

An Act to provide for the more effectual extinction of Secret 9 Geo. IV.
 Incumbrances on Lands, than was heretofore in use in this Cap. 20.
 Province.—(*Temporary.*)

WHEREAS, to secure the property and possessions of His Majesty's Preamble.
 subjects, and to prevent the disturbances and evictions which fre-
 quently arise from secret mortgages, unknown to the purchasers of such
 property and possessions, by which said mortgages, purchasers have been See Tables.
 obliged, after having *bond fide* paid the prices of such property and
 possessions, again to pay large sums of money by reason of such secret mort-
 gages, or to relinquish and give up such property and possessions, it is ne-
 cessary to establish certain rules and provisions which may reconcile the
 opposite interests of individuals in this matter, and for this purpose to es-
 tablish, in an invariable manner, the order and stability of hypothecs, and to
 fix a certain and easy course for preserving them, so that on the one hand
 purchasers of immoveables, whether immoveables real or immoveables by
 fiction of law, may make such purchases with confidence and obtain a valid
 discharge after they shall have paid the price of such immoveables; and on
 the other hand, the vendors of such immoveables may, within a known and
 reasonable time, receive such price or purchase money, without incurring
 the delays and heavy expenses which have been and are incident to sheriff's
 sales, the only mode of security to which purchasers so circumstanced have
 hitherto been able to resort: And whereas also, such sheriff's sales are al-
 together too expensive to be resorted to where the immoveables sold are of
 small value:—Be it therefore enacted, &c., that from and after the passing
 of this act, all proprietors of immoveables, whether the same be immoveables Mode authori-
 zed to enable
 purchasers to
 obtain a more
 effectual ex-
 tinction of se-
 cret incum-
 brances on any
 property ac-
 quired by
 them.
 real or immoveables by fiction of law, having acquired the same by purchase,
 exchange, licitation, or other title of a nature to transfer property, who are
 desirous of discharging such immoveables from any hypothec or hypothecs,
 wherewith they may have been incumbered immediately previous to and at
 the time the same were purchased or otherwise acquired by such person or
 persons, shall and may obtain a sentence and judgment of confirmation of their
 purchase or acquisition in the manner hereinafter mentioned; which said sen-
 tence or judgment of confirmation shall have the effect of discharging the
 privileges and hypothecs wherewith such immoveables were incumbered
 previous to and at the time of such purchase or acquisition as aforesaid, in
 respect of all, each and every the creditors of the vendors or assignors, and
 of their predecessors, who shall have neglected to make their opposition in
 the form and within the time hereinafter prescribed; and the purchasers or
 proprietors of such immoveables who shall have obtained such sentence or
 judgment of confirmation, shall be and remain incommutable proprietors
 thereof, without being in any manner held or bound for the debts of the pre-
 ceding proprietors of the same, in any manner or under any pretext whatso-

ever : Provided however, that such sentence or judgment of confirmation shall not have the effect of giving to such purchasers or proprietors, in relation to the property, any other or greater real rights, *droits réels fonciers*, or servitude, than their vendors had ; it being hereby declared, that the sole effect of such sentence or judgment of confirmation shall be confined to the discharging of privileges and hypothecs, only.

Proceedings to be followed by purchasers in order to obtain such confirmation of titles.

II. And be it further enacted, &c., that such purchaser or proprietor, before he shall be entitled to demand or have such sentence or judgment of confirmation, shall be bound to lodge at the office of the prothonotary of the court of King's bench for the district where such immoveables shall lie or be, the title deed of purchase or acquisition thereof ; and thereupon public notice thereof, under the signature of the prothonotary, shall be given three several times in the course of four months, in the Quebec Gazette, stating the date of the deed, the names and descriptions of the parties, its operation or general character, a description of the immovable in question, and who was in the actual possession thereof during the three years next before such notification, and the day on which such sentence or judgment of confirmation shall be applied for, thereby calling on all persons who may have, or claim to have, any privilege or hypothec under any title, or by any means whatsoever, in or upon the immoveables in respect of which such sentence or judgment of confirmation shall be applied for, to signify in writing their oppositions, and file the same in the office of such prothonotary, eight days at the least before the day fixed for such application ; which notification shall be in the form or to the effect expressed in the schedule hereunto annexed, but with any additions or alterations which the nature of the case may require, and the same shall also be publicly and audibly read at the church door of the parish, township or place in which the immoveables shall be situate, at the issue, or immediately after divine service in the forenoon, on the four Sundays next before the day on which such application shall be made as aforesaid ; and such notice shall also be posted up at the door of such church, on the first Sunday on which the same shall be so read ; and where there is no church or other place of divine worship, such notice shall be so given at the most public place or places in the parish, township or place in which the premises shall be situate.

Rights reserved to the creditors of vendors, assignors, or their predecessors with certain restrictions.

III. And be it further enacted, &c., that during the said four months, it shall be competent to any lawful creditor of the vendor, assignor, or of their predecessors to appear at the office of the prothonotary, if he see fit, and there tender and offer an increase in the price, purchase money or other consideration in the aforesaid title deed contained, and have the same received, provided such augmentation shall amount to at least one tenth of the amount of the price, purchase money or other consideration in such deed of purchase or acquisition contained,—and that it shall in like manner be competent to any other creditor or creditors of such vendor or assignor in like manner to outbid such creditor ; provided that each creditor out-bidding the previous creditor or creditors offer an increase in price not less than one twentieth of the amount of the price, purchase money or other consideration in such deed of purchase or acquisition contained, and, in the before mentioned cases to restore to the purchaser or proprietor his costs and lawful disbursements ; for doing all which he shall be bound to give good and sufficient security to be received by one of the justices of the court of King's bench for the district in which such immoveables may lie, at the time of making such bid, in the usual and accustomed manner : Provided always,

Proviso.

that it shall and may be lawful for the purchaser or proprietor of such immoveables, to keep and retain the same upon completing and making up the highest price and sum which has been lawfully bid for the same : *Pro-* *Provido.*
 vided also, that in default of such creditors' tendering and offering such increase in the price, purchase money or consideration, within the delay and in the form aforesaid, the value of the immoveables shall be and remain definitively fixed at the price or sum in the said title deed contained.

IV. And be it further enacted, &c., that upon due proof of the formalities hereinbefore prescribed having been observed, the court of King's bench, sitting in the superior term, for the district in which such immoveables shall be, shall and may, on the summary petition of the purchaser or proprietor, pronounce a sentence or judgment confirming such title deed, which sentence or judgment shall have the effect hereinbefore mentioned and declared. *On due proof, the court to pronounce judgment of confirmation.*

V. Provided always, and be it further enacted, &c., that in the case of immoveables by fiction of law, such proceedings and sentence or judgment of confirmation shall be had and obtained in the court of King's bench, sitting in the superior term, for the district where the vendor or assignor of such immoveable by fiction of law, shall have had his domicile for three years next preceding the sale to be so confirmed as aforesaid, or if his domicile during that period has been in more districts than one, then in that district in which he shall be actually domiciliated, giving the like public notice in the several other districts where he may have been so domiciliated during any part of the three years last aforesaid. *Case of immoveables by fiction of law provided for.*

VI. And be it further enacted, &c., that when the deed of purchase, exchange or other title of a nature to transfer property, includes immoveables real, or ground rents, *rentes foncières*, situate within the limits of different districts, the sentence or judgment of confirmation shall be obtained in such districts, respectively, in default of which the purchasers or proprietors shall be liable to the hypothecs of the vendor or assignor in relation to such immoveables as shall be within the limits of the district in which no such sentence or judgment shall be obtained ; it being hereby nevertheless *Provido.*
 provided, that in the case of purchase, or other title of a nature to transfer property of fiefs or seigniories which shall extend to different districts, such proceedings and sentence or judgment of confirmation shall be had and obtained in the court of King's bench, sitting in the superior term, for the district in which the principal manor of such fief or seignior shall lie. *The sentence of confirmation must be obtained in the district where the immoveable is situate.*

VII. And be it further enacted, &c., that all persons, bodies politic or corporate, ecclesiastical or civil, women subject to marital authority, minors, persons interdicted or absentees, who may have or claim to have any privilege or hypothec, under any title or by any means whatsoever, even for dower not yet open (*douaire non encore ouvert*)* in or upon the immoveables in respect of which such sentence or judgment of confirmation shall be so applied for, shall be held and bound to file their oppositions, containing the usual election of domicile, with the prothonotary of the court in which such proceedings are had, within the period above limited, in order to preserve their privileges or hypothecs, in default of which such privileges or hypothecs shall be discharged and extinguished : Provided nevertheless, that nothing herein contained, shall diminish the liability of administrators, husbands, tutors or curators, as by law established, for the consequences of any neglect in relation to the premises, or in any manner or way to affect substitutions ; and provided also, that it shall and may be lawful for such *Persons claiming any privilege or hypothec upon immoveables of which sentence may be applied for, to file their oppositions. * But see Sect. VIII.*
Provido.

purchaser as aforesaid, to discharge and extinguish all or any of the privileges or hypothecs so preserved, by paying the price, purchase money or consideration fixed and established in the manner hereinbefore provided, to the creditors who shall be entitled to receive the same, or by depositing the amount thereof in the hands of the prothonotary of the court in which such proceedings are had as aforesaid, to be distributed according to law.

Saving of the rights of women during marriage, and of children.

VIII. Provided also, and be it further enacted, &c., that nothing hereinbefore contained shall extend or be construed to extend to take away, diminish, alter, or any way affect the rights or hypothecs of women during marriage, upon the immoveables of their husbands, or of children upon the immoveables of their fathers in relation to dower not yet open, nor in any manner or way to affect substitutions.

Seigniors, &c., obliged to file their oppositions only in relation to any arrears of *cens et rentes*, &c.

IX. Provided also, and be it further enacted, &c., that seigniors, and all persons, bodies politic or corporate, ecclesiastical or civil, holding, as proprietors, any fief or seignior, shall not be held or bound to file any opposition in relation to the *cens et rentes foncières*, and other feudal and seigniorial rights and burthens upon or in respect of the lands for which such proceedings shall be had as aforesaid : it being nevertheless hereby expressly declared and provided that in relation to any arrears of *cens et rentes*, or any *lods et ventes*, or other feudal or seigniorial rights or dues that may have accrued before such immoveables were so purchased, or otherwise acquired as aforesaid, they shall be held and bound to file their oppositions within the time and in the manner hereinbefore provided in respect of other creditors.

Privileged creditors to be paid first.

X. And be it further enacted, &c., that amongst the opposing creditors, those who are privileged shall be first paid out of the price or purchase money of such immoveables ; after the payment of such as are so privileged, the hypothecary creditors shall be collocated according to the order and rank of their hypothecs ; and if there shall remain any further sum or sums of money, the same shall be distributed amongst the chirographary opposing creditors, in preference to the privileged or hypothecary creditors who shall have neglected to file their oppositions.

Certain fees only allowed.

XI. And be it further enacted, &c., that the following fees only shall be allowed :—To the prothonotary, for filing the deed, one shilling, currency ; for every opposition, six pence, currency ; for every necessary certificate, six pence, currency ; for every sentence or judgment, two shillings, currency ; for a copy thereof, one shilling, currency :—To the bailiff, for posting up the advertisement, one shilling, currency ; for each publication thereof, one shilling, currency ; to him, for every league he shall travel in the country, one shilling and six pence, currency ; for his certificate, one shilling and six pence, currency :—To the printer, for every ten lines of printing, in both languages, five shillings, currency, for the first insertion, and one shilling and three pence, currency, for every subsequent insertion ; and when such insertion shall exceed ten lines, then he shall be entitled to receive eight pence per line for the first insertion, in both languages, and two pence per line for every subsequent insertion, and no more, for his advertisement.

If no oppositions exist, confirmation to be pronounced purely and simply.

XII. And be it further enacted, &c., that if no oppositions exist, the sentence or judgment of confirmation to be so pronounced as aforesaid, shall be so pronounced purely and simply ; and in the case of oppositions, the same shall be mentioned and referred to in such sentence or judgment of confirmation, leaving the parties to enforce the same upon the proceeds of such sale in the ordinary course of law.

XIII. And be it further enacted, &c., that every prothonotary shall give ^{Duties of the} due attendance at his office every day in the week, Sundays and Holydays ^{prothonotaries.} excepted, during the usual hours, for the despatch of all business in any manner relating to the purposes of this act; and that every such prothonotary, as often as required, shall make searches concerning all proceedings that are had as aforesaid, and deliver such extracts and certificates as may be lawfully required; and if such prothonotary shall be guilty of any neglect, misdemeanor or fraudulent practice, whereby any of the provisions of this act may be evaded, he shall pay the damages with full costs of suit to every person that shall be injured thereby, to be recovered by action in any of His Majesty's courts of King's bench in this Province.

XIV. And be it further enacted, &c., that from and after the passing of ^{All proceed-} this act, all proceedings, in the nature of voluntary *décrets*, ^{ings in the na-} shall be and ^{ture of volun-} they are hereby abolished. ^{tary *décrets*} ^{abolished.}

SCHEDULE.

"Public notice is hereby given, that there has been lodged in the office
 "of the prothonotary of the court of King's bench of and for the district of
 "a *deed*, made and executed before A. B. and colleague,
 "notaries public, on the _____ day of _____ between
 "C. D., of _____ of the one part, and E. F. of
 "of the other part, being a *sale* by the said C. D. to the said E. F. of a
 "lot or parcel of land, situate, &c. and possessed by _____ as
 "proprietor for three years past; and all persons who may have or claim to
 "have any privilege or hypothec, under any title or by any means what-
 "soever, in or upon the said lot of land immediately previous to and at the
 "time the same were acquired by the said C. D. are hereby notified, that
 "application will be made to the said court on _____ the
 "day of _____ for a sentence or judgment of confirmation; and they
 "are hereby required to signify in writing their oppositions, and file the
 "same in the office of the said prothonotary eight days at least before that
 "day, in default of which they will be for ever precluded from the right
 "of doing so."

4. REGISTRATION OF TITLES, CLAIMS, &c.

An Ordinance to prescribe and regulate the Registering of Titles ^{4 Vict. Cap.} to Lands, Tenements and Hereditaments, Real or Immove- ^{30.} able Estates, and of Charges and Incumbrances on the same; and for the alteration and improvement of the Law, in certain particulars, in relation to the Alienation and Hypothecation of Real Estates, and the Rights and Interest acquired therein.

WHEREAS great losses and evils have been experienced from secret ^{Preamble.} and fraudulent conveyances of real estates, and incumbrances on the same, and from the uncertainty and insecurity of titles to lands in this Province, to the manifest injury and occasional ruin of purchasers, creditors, and others: And whereas the registering of all titles to real or immoveable estates, and of all charges and incumbrances on the same, would not only obviate these losses and evils for the future, but would also, with some alteration of the existing laws, whereby the removal of inconvenient

Memorials of deeds, wills and various other instruments in writing may be registered.

* 31st Dec'r. 1811.

See Tables.

Deeds, &c., to be inoperative against subsequent purchasers, &c., in certain cases.

Also devises by wills.

And appointments of tutors and curators.

Proviso, respecting prior unregistered sales, mortgages, &c.

Punishment

and inexpedient restraints and burthens on the alienation of real estates might be effected, greatly promote the agricultural and commercial interests of this Province, and advance its improvement and prosperity :—Be it therefore ordained and enacted, &c., that a memorial of all deeds, conveyances, notarial obligations, contracts and instruments in writing, which from and after the day on which this ordinance shall come into force and effect,* shall be made and executed, and of all wills which shall be made and published by any devisor or testatrix who shall die after the day last mentioned, and of all judgments, judicial acts and proceedings, recognizances, appointments of tutors or guardians to minors, and of curators to interdicted persons, and of all privileged and hypothecary rights and claims and incumbrances, from whatever cause they may result, and whether produced by mere operation of law or otherwise, which shall be entered into, made, acquired, or obtained after the day last mentioned, of or concerning, or whereby any lands, tenements, or hereditaments, real or immoveable estates in this Province, shall or may be alienated, conveyed, devised, hypothecated, mortgaged, charged, or in any manner or way affected, may be registered, in such manner as is hereinafter directed ; and that every such deed, conveyance, notarial obligation, contract and instrument in writing, judgment, judicial act and proceeding, recognizance, privileged and hypothecary right and claim, and incumbrance, which shall after the day last mentioned, be entered into, made, executed, acquired or obtained, shall be adjudged to be inoperative, void and of no effect, against any subsequent *bonâ fide* purchaser, grantee, mortgagee, hypothecary or privileged creditor or incumbrancer, for or upon valuable consideration, unless such memorial thereof as by this ordinance is prescribed, shall have been registered before the registering of the memorial of the deed, conveyance, notarial obligation, contract, instrument in writing, judgment, judicial act or proceeding, recognizance, privileged or hypothecary right or claim, or incumbrance, under which such subsequent purchaser, grantee, mortgagee, hypothecary or privileged creditor, or incumbrancer, shall claim ; and that every such devise by will shall be adjudged to be inoperative, void, and of no effect, against any subsequent purchaser, grantee, mortgagee, hypothecary or privileged creditor or incumbrancer, for or upon valuable consideration, unless a memorial of such will be registered, in such manner as is hereinafter prescribed ; and that every such appointment of a tutor to a minor or minors, and of a curator to a person or persons interdicted, shall be adjudged to be inoperative in conferring or carrying with it any hypothec or hypothecary right whatever, and be void and of no effect against any subsequent purchaser, grantee, mortgagee, hypothecary or privileged creditor, or incumbrancer, for or upon valuable consideration, unless a memorial of such appointment of a tutor or curator shall have been registered, in such manner as by this ordinance is prescribed : Provided always, that no notice or knowledge of any prior unregistered sale, grant, mortgage, hypothec, privilege or incumbrance, of or upon any lands, tenements or hereditaments, subject to enregistration, given to or possessed by any party to whom or in whose favour any subsequent sale, grant, mortgage, hypothec, privilege or incumbrance of the same lands, tenements, or hereditaments, or of any part or parcel thereof, duly enregistered, may have been made or created, shall vitiate or in any wise affect any right, title, claim or interest whatever, so derived to and vested in any such subsequent purchaser, grantee, mortgagee, hypothecary or privileged creditor or incumbrancer, for a valuable consideration ; and that each and every person who, knowing the existence of any such unregistered prior sale, grant, mortgage,

hypothec, privilege or incumbrance, of or upon any lands, tenements or hereditaments as aforesaid, shall fraudulently make any such subsequent sale of the same lands, tenements or hereditaments, or of any part or parcel thereof, shall be guilty of a misdemeanor, and, being thereof duly convicted, shall be liable to such imprisonment not exceeding twelve calendar months, and also to such fine and penalty not exceeding five hundred pounds, current money of this Province, as the court before whom the conviction shall take place, shall think it right to inflict.

II. Provided always, and be it further ordained and enacted, that it shall not be necessary to register any memorial as aforesaid for arrears of *cens et rentes*, or rents due to the seignior, or lord of the fee, for a period not exceeding seven years, or for seigniorial services or ducs, other than *lods et rentes*, or for arrears of *rentes foncières* or ground rents, for any period not exceeding seven years, nor for the expenses of affixing seals for safe custody, or for making an inventory, when required by law, nor for costs incurred for the common benefit of creditors, nor for funeral expenses, and those of the last sickness, nor for servants' wages for any period not exceeding two years; and that to these several descriptions of privileged debts the provisions of this ordinance shall not extend.

III. Provided also, and be it further ordained and enacted, that the registration hereinbefore required of memorials of deeds, conveyances, or wills, whereby an estate of inheritance, or in freehold is passed or intended to be passed, shall not operate to the prejudice of grantees or purchasers, for valuable consideration, or of devisees, whose title may be derived from a different grantor, vendor, deviser, or testatrix, but shall operate and have the effect hereinbefore mentioned, between and in respect of grantees, purchasers and persons whose title is derived from the same grantor, vendor, deviser, or testatrix, and not otherwise.

IV. And be it further ordained and enacted, that a memorial of all notarial obligations, contracts, instruments in writing, judgments, judicial acts and proceedings, recognizances, privileged and hypothecary rights and claims, now in force, or which shall be in force on the day on which this ordinance shall come into force and effect, whereby any debt or debts, sum or sums of money, goods or chattels, have been contracted, stipulated or secured, or have been recovered or made, and are payable or deliverable, and whereby any lands, tenements or hereditaments, real or immoveable estates, have been and are hypothecated, charged or incumbered, for the payment, satisfaction, or delivery thereof, shall be registered in such manner as is hereinafter prescribed, within twelve calendar months, from and after the day on which this ordinance shall come into force and effect; and such registration, when so made within the period last aforesaid, shall have the effect of preserving such hypothecs, privileged and hypothecary rights and claims, according to their respective rank and priority, in the same manner as if this ordinance had not been made; and every such notarial obligation, contract, instrument in writing, judgment, recognizance, judicial act or proceeding, privileged or hypothecary right or claim, whereof a memorial shall not be registered within the period last mentioned, shall, from and after the lapse of the said period, be inoperative, void and of no effect whatever, against any subsequent *boni fide* purchaser, grantee, mortgagee, hypothecary or privileged creditor or incumbrancer, for or upon valuable consideration: Provided that nothing herein contained shall be construed to require the registration of the original grant, letters patent, conveyance or title by which lands have been granted

of persons making double sales, hypothecations, &c.

Certain privileged debts not requiring to be enregistered.

See Tables.

The registration required of memorials of certain deeds, &c., not to operate to the prejudice of certain persons.

See Tables.

Memorials of various instruments in writing to be enregistered within a stated period, otherwise they will be inoperative against subsequent purchasers, &c.

See Tables.

Not to extend to original grants, &c.

and conveyed and are now held, *en fief, à titre de cens, en franc alev*, or in free and common soccage, or of any rent, sum of money, due, duty, or service, therein or thereby stipulated or reserved by the seignior, original grantor, or lord of the fee.

Register offices to be established, and registrars to be appointed by the governor.

But see Tables.

V. And be it further ordained and enacted, that there shall be established in each and every of the judicial districts of this Province, at such place as by the Governor of the Province shall be appointed for the holding of the district court, in the said districts respectively, a public office for the registering of all such memorials as aforesaid, of or concerning, or in any manner affecting lands, tenements and hereditaments, real or immoveable estates, situated, lying or being within such districts respectively; and it shall be lawful for the Governor of this Province, from time to time, and as occasion may require, to appoint a person of fit integrity and ability, to be registrar for each and every of the said districts, respectively, by whom the said office shall be kept, and the duties imposed by this ordinance, in respect of the same, be performed; and to remove any such registrar, and in case of vacancy of the office by death, resignation or removal, to appoint another fit person to fill such vacancy.

Registrars to appoint deputies.

VI. And be it further ordained and enacted, that it shall be lawful for each of the registrars to be appointed as aforesaid, and he is hereby required, within twenty days after he shall have taken the oath of office, to appoint a sufficient deputy for the discharge of the duties of his office; and in the event of the death of any such deputy registrar, it shall be incumbent on his principal, to appoint another deputy in his place, within twenty days after the death of such deputy shall occur; and if any such registrar shall neglect to appoint a deputy registrar, as hereinbefore is prescribed, he shall forfeit five pounds, current money of this Province, for each and every day during which he shall have neglected to make such appointment; which penalty shall and may be recovered in any court of record in this Province, and one half thereof shall go and be paid to Her Majesty, Her Heirs or Successors, and the other half thereof to the informer; and upon the death of any such registrar, his deputy, to be appointed as aforesaid, shall execute the office of registrar, until another person shall be appointed and shall take upon himself the said office.

Death of any registrar to be notified to the secretary of the Province.

See Tables.

VII. And be it further ordained and enacted, that it shall be the duty of the sheriff of the judicial district, or if there be no such sheriff, then of the warden of the municipal district, in which any registrar appointed as aforesaid shall die, to notify the death of such registrar forthwith to the secretary of the Province, for the information of the Governor of the Province, who shall, within one month after any such death shall have occurred, appoint another fit person to fill the vacancy thereby occasioned.

Registrars and their deputies to take the oath of allegiance, and an oath of office.

VIII. And be it further ordained and enacted, that every such registrar, and deputy registrar, before he enters upon the execution of his said office, shall take and subscribe, before one of the justices of the court of King's bench for any district in this Province, or of the court of common pleas for this Province, the oath of allegiance to Her Majesty, Her Heirs or Successors, and also the oath of office contained in the schedule, number one, to this ordinance subjoined; which oaths shall be fairly written on parchment, and, after the same have been sworn, shall be transmitted to the clerk of the peace for the judicial district for which such registrar or deputy registrar shall have been appointed, or to the clerk of the peace for that one of the present districts within which such registrar is to keep his office, who is

hereby required to file the same among the records of his office, for which service he shall be entitled to have from such registrar, or deputy registrar, five shillings, and no more : and every such registrar shall also, before he takes upon himself the execution of his office, enter into a recognizance to Her Majesty, Her Heirs and Successors, with two or more, and not more than four, good and sufficient sureties, to be approved by the justice before whom such recognizance shall be taken, jointly and severally, as follows, that is to say :—every registrar, for any district other than the districts in which the cities of Quebec and Montreal shall lie, in the penal sum of two thousand pounds,—and each of the registrars for the said districts in which the said cities of Quebec and Montreal, respectively, shall lie, in the penal sum of five thousand pounds, upon the condition contained in the schedule, number two, to this ordinance subjoined ; which recognizance, fairly written on parchment, shall be so entered into before one of the justices of the said court of King's bench, or of common pleas, and shall be filed and remain of record in the said court of King's bench or of common pleas, and shall stand and be as and for a security, as well to Her Majesty, Her Heirs and Successors, as to all other persons who may be aggrieved by the breach of the said condition, and who shall recover judgment against any such registrar, or his legal representatives, for any sum or sums of money for or by reason of any misconduct, negligence, or default of such registrar, or his deputy, in the discharge of the duties of the said office.

And also to enter into recognizances to Her Majesty.
See Tables.

IX. Provided always, and be it further ordained and enacted, that in all cases where, within three years after the death or resignation of any such registrar, no misconduct shall appear to have been committed by him, or his deputy, in the execution of his said office, the recognizance entered into by such registrar, as aforesaid, shall, from and after the lapse of that period, become and be void to all intents and purposes whatever.

When the recognizances shall become void.
See Tables.

X. And be it further ordained and enacted, that each and every memorial to be registered as aforesaid, shall be in writing, and attested by two witnesses ; and the memorial of every deed, conveyance, contract in writing, or will, shall be made under the hand of some or one of the grantors or covenantors, or of some or one of the grantees or covenantees, or of some or one of the devisees in such will, his, her or their heirs, executors, curators, or administrators, tutors or guardians, or trustees ; and the memorial of every notarial obligation, judgment, judicial act or proceeding, recognizance, privileged or hypothecary right or claim, to be registered as aforesaid, shall be under the hand of the creditor, or person entitled to the debt or sum of money stipulated, recovered, established, or intended to be secured by such notarial obligation, judgment, judicial act or proceeding, recognizance, privileged or hypothecary right or claim, his, her or their heirs, executors, curators, tutors or guardians, or trustees ; and every memorial of a contract of marriage, or of the appointment of a tutor or guardian to minors, or of a curator to persons interdicted, to be registered as aforesaid, shall and may be under the hand of any one of the several persons hereinafter authorized and required to cause and procure the registration of such memorial ; and every memorial of a deed, conveyance, contract in writing, or will, shall express the day of the month, and the year of the date thereof, and the names, places of abode, and additions of the parties to such deed, conveyance, or contract in writing, and the name of the deviser or testatrix of such will, and of all the witnesses to such deed, conveyance, contract in writing, or will, and the places of their abode, or the name or names of the notary or

How memorials are to be made out and executed.
Deeds, &c.

Notarial obligations.
See Tables.

Contracts of marriage, appointments of tutors, &c.

Particulars required in the memorial of a deed, &c.

notaries before whom the same has been executed, or of one of them, having the custody of the original instrument; and shall mention and describe the lands, tenements and hereditaments granted, conveyed, devised, charged, or affected by such deed, conveyance, contract in writing, or will, according to the description thereof contained, in such deed, conveyance, contract in writing, or will, or to the same effect, and also the nature and general purpose and character of such deed, conveyance, contract in writing, or will; and every memorial of a notarial obligation, to be registered as aforesaid, shall specify the date thereof, and the name or names of the notary or notaries before whom the same has been made and executed, or of one of them having the custody of the original obligation, and the names, places of abode, and additions of the obligor, and obligee therein named, and for what sum or sums of money the same has been made and entered into; and also shall mention and describe the lands, tenements and hereditaments, hypothecated, charged, or affected by such notarial obligation, according to the description thereof contained in such notarial obligation, or to the same effect; and every memorial of a judgment, judicial act or proceeding, recognizance, privileged right or claim, to be registered as aforesaid, shall express and contain, in case of such judgment, judicial act or proceeding, the names, places of abode, and additions of the parties, plaintiffs and defendants therein, the sum or sums of money thereby recovered or adjudged, and the time of the recovering of such judgment, or of the accomplishment and completion of such judicial act or proceeding; and in case of recognizances, the date of the recognizance, the names, places of abode, and additions of the cognizers and cognizees therein, and for what sum or sums of money, and before whom the same was acknowledged, and a description of the lands, tenements and hereditaments, charged or affected by such recognizance; and in case of privileged and hypothecary rights and claims, the names, places of abode, and additions of the creditors and debtors respectively, the amount of the debt, the nature and general purpose and character of the written security or document conferring, or affording evidence of the privilege or hypothec, and a description of the lands, tenements, and hereditaments charged, incumbered, or affected with such privilege or hypothec, and the date of such written security; and every memorial of the appointment of a tutor or guardian to minors, and of a curator to persons interdicted, shall express and contain the name, place of abode and addition of the tutor or curator, and the names of each of the minors, or interdicted persons, of whom he has been appointed tutor or curator, and the name and description of the judge by and under whose authority such appointment has been made, and shall also express whether such memorial is to be registered, in respect of all the real estates of such tutor or curator, or of a part only, and if a part, of what part; and if such memorial be made by any other person than the tutor or curator himself, it shall also express the name, place of abode, and addition of the person by whom it is made.

In a memorial
of a notarial
obligation.

In that of a
judgment, &c.

Of a recogni-
zance.

Of a privileged
claim, &c.

Of an appoint-
ment of a tutor,
&c.

How the re-
gistration of
memorials is
to be effected.
See Titles.

XI. And be it further ordained and enacted, that for the purpose of effecting the registration of memorials to be registered as aforesaid, every memorial made and executed in the manner hereinbefore required, shall be presented and delivered to the registrar or his deputy, at the office where the same is to be registered, and the same shall be acknowledged by the person or persons by whom the same shall have been executed, or one of them, or shall be proved by one of the witnesses to the execution thereof, on oath before the said registrar or his deputy, who is hereby empowered to

administer the said oath; and together with every such memorial, there shall be produced to the said registrar or his deputy, the deed, conveyance, contract in writing, the will, or the probate or office copy of such will, the notarial obligation, instrument in writing, judgment, recognizance, appointment of a tutor or guardian and of curator, judicial act and proceeding, privileged or hypothecary right or claim, of which such memorial is to be registered, or a notarial copy of any such document, if the original be executed in the notarial form and be in the custody of a notary, or an office copy of any such document or writing as aforesaid, as may have validity, or proceed from the authority of a court of justice, or the judge of any court; and the said registrar or his deputy shall indorse a certificate on every such deed, conveyance, will, probate, or office copy of a will, notarial obligation, instrument in writing, judgment, recognizance, appointment of a tutor or curator, judicial act or proceeding, privileged or hypothecary right or claim, notarial or office copy, produced as aforesaid, and therein mention the certain day, hour and time at which such memorial shall be entered and registered, expressing therein also, in what book and page, and under what number the same shall be entered; and the said registrar or his deputy, shall sign the said certificate when so indorsed; and all certificates, so indorsed and given, shall be taken and allowed as evidence of such respective registries, in all courts of justice whatsoever.

Production of the original deed or instrument, &c.

Certificate to be indorsed by the registrar on the deed or instrument.

XII. Provided always, and be it further ordained and enacted, that any memorial to be registered as aforesaid, that may be made and executed at any place within this Province, not being within the district wherein the lands, tenements or hereditaments, real or immoveable estates therein mentioned may lie, shall be entered and registered by the registrar of such district or his deputy, on the production and delivery to such registrar or his deputy, of an affidavit sworn before one of the judges of any court of King's bench or of Queen's bench, or of the common pleas, by which the execution of such memorial shall be proved by one of the witnesses to the same: And provided also, that any memorial to be registered as aforesaid, that may be made and executed in Great Britain or Ireland, or in any of the colonies or possessions belonging to the Crown of the United Kingdom of Great Britain and Ireland, shall be entered and registered, upon the production and delivery, to the registrar or his deputy, of an affidavit sworn before the mayor or chief magistrate of any city, borough or town corporate in Great Britain or Ireland, or the chief justice or a judge of the supreme court of any such colony or possession, by which the execution of such memorial shall be proved by one of the witnesses to the same: And provided also, that any memorial to be registered as aforesaid, that may be made or executed in any foreign state, shall be entered and registered upon the production and delivery to the registrar or his deputy, of an affidavit, sworn before any minister plenipotentiary, or minister extraordinary, or any *chargé d'affaires*, or any consul of Her Majesty, Her Heirs or Successors, resident and accredited with such foreign state, (who is hereby empowered to administer the oath in this behalf,) by which the execution of such memorial shall be proved by one of the witnesses to the same.

Respecting memorials made and executed out of the district wherein the lands, &c., therein mentioned, may lie.

See Tables.

And also of those made and executed out of the Province.

XIII. Provided also, and be it further ordained and enacted, that where there are more writings than one, for making and perfecting any conveyance or security, which do name, mention, or in any wise affect or concern the same lands, tenements or hereditaments, real or immoveable estates, it shall be a sufficient memorial and register thereof, if all the same lands,

Where there are more writings than one, in which the same lands, &c., are affect-

ed, one memorial and registry thereof to be sufficient.

tenements and hereditaments, real or immoveable estates, and the parishes, townships or extra parochial places wherein the same lie, be only once named or mentioned in the memorial, registry and certificates of any one of the deeds or writings made for the perfecting of such conveyance or security, and that the dates of the rest of the said deeds or writings relating to the said conveyance or security, with the names and additions of the parties and witnesses, and the places of their abode, be only set down in the memorials, registries and certificates of the same, with a reference to the deed or writing whereof the memorial is so registered, that contains or expresses the parcels mentioned in all the said deeds, and directions how to find the registering of the same.

Concerning the registration of wills.

XIV. Provided also, and be it further ordained and enacted, that all memorials of wills that shall be registered in manner aforesaid, within the space of six months after the death of every respective deviser or testatrix, dying within the Provinces of Upper or Lower Canada, or within the territories now included in the said Provinces, or within the space of three years after the death of any deviser or testatrix dying in any country or place beyond the limits of the said Provinces, shall be as valid and effectual against subsequent purchasers, grantees, judgments, judicial acts and proceedings, recognizances, privileged and hypothecary rights and claims, as if the same had been registered immediately after the death of such respective deviser or testatrix; any thing herein contained to the contrary thereof in any wise notwithstanding: And provided also, that in case the devisee or person or persons interested in the lands, tenements or hereditaments, real or immoveable estates, devised by any such will as aforesaid, by reason of the concealment or suppression, or the contesting of such will, or other inevitable difficulty without his, her or their wilful neglect or default, shall be disabled from exhibiting a memorial for the registry thereof, within the respective times hereinbefore limited, and that a memorial shall be entered in the said office, of such contest or other impediment, within the space of six months after the decease of such deviser or testatrix, who shall die within either of the Provinces of Upper or Lower Canada, or within the space of three years next after the decease of such deviser or testatrix who shall die in any country or place beyond the limits of the said Provinces,—then, and in every such case, the registry of the memorial of such will, within the space of six months next after his, her or their attainment of such will or a probate thereof, or removal of the impediment whereby he, she, or they, have been disabled or hindered from exhibiting such memorial, shall be a sufficient registry, within the meaning of this ordinance; any thing herein contained to the contrary thereof in any wise notwithstanding: Provided nevertheless, that in case of any concealment or suppression of any will or devise, no purchaser or purchasers for valuable consideration shall be defeated or disturbed in his, her or their purchase, nor shall any plaintiff in any judgment, nor any hypothecary or privileged creditor, or incumbrancer, be defeated of his, her or their debts, by any title made or devised by such will, unless the will be actually registered within five years after the death of the deviser or testatrix.

Proviso, as to wills concealed, contested, &c.

Proviso; final limitation of time for registration.

Relating to memorials of sales and mutations on which "droit de quint," &c.

XV. Provided also, and be it further ordained and enacted, that in cases of sales or alienations equivalent to sales of lands, tenements and hereditaments, real or immoveable estates, on which the *droit de quint* or *droits de lods et ventes*, shall accrue and become due, and also in cases of mutations on which the *droit de relief* shall accrue and become due, all me-

memorials that shall be registered in manner aforesaid, of such *droit de quint*, shall accrue or *droits de lods et ventes*, or of such *droit de relief*, accrued and become due as aforesaid, within forty days after any such sale or alienation equivalent to sale, shall be made known to the seignior or seigniors entitled to the same, shall be as valid and effectual against subsequent purchasers and incumbrancers, and all other persons, as if the same had been registered immediately after the sale or alienation equivalent to sale or the mutation, on which the same shall have accrued and become due; any thing hereinbefore contained to the contrary thereof notwithstanding. *But see Tables.*

XVI. Provided also, and be it further ordained and enacted, that no creditor shall be entitled, by reason of any registered memorial of a mortgage, hypothec or privilege, to a preference or priority before others, for more than two years arrears of interest on the debt or capital sum thereby secured, unless a memorial of his claim for arrears of interest to a specific amount, beyond the arrears of two years, shall have been separately registered as being due under such mortgage, hypothec or privilege, and unless such creditor do, at the time of presenting such memorial to the registrar or his deputy, make oath before such registrar or his deputy, (who is hereby empowered to administer such oath,) that the said specific amount of interest remains due and unpaid to him, or unless an affidavit to the same effect be sworn to before one of the judges of the courts of King's bench or common pleas for this Province, (who is hereby empowered to take such affidavit) and delivered with such memorial to the said registrar or his deputy. *Cases in which a creditor shall be entitled to a preference before other creditors for interest. See Tables.*

XVII. Provided also, and be it further ordained and enacted, that the provisions of this ordinance, and any thing herein contained, shall not extend to leases for a less period than nine years. *Leases for less than 9 years. See Tables.*

XVIII. And be it further ordained and enacted, that the registration of memorials of hypothecs, and hypothecary rights and claims, as directed by this ordinance, which shall be made within ten days next before the bankruptcy of the debtor or debtors, shall give no priority over other creditors of the same debtor or debtors, and shall produce no effect whatever. *Memorials of hypothecs by debtors previous to bankruptcy. See Tables.*

XIX. And be it further ordained and enacted, that each and every of the registers to be used for the registration of memorials therein, as aforesaid, shall, before the making of any entries, be authenticated by a *memorandum*, to be writtem on the first page thereof, and signed by the prothonotary of the court of King's bench, or of the division of the court of common pleas, sitting in the district or territorial division within which such registers are to be used; by which *memorandum* shall be certified the purpose for which the said register is intended, the number of leaves contained therein, and the day, month and year on which such *memorandum* shall be made, and shall also be authenticated by the numbering of each of the said leaves in words at full length, with the initial letters of the name of the said prothonotary subscribed thereto; and every memorial that shall be entered in every such register shall be numbered, and the day of the month and the year, and hour of the day, when every memorial is registered, shall be entered in the margin of the said registers; and the said registrar, or his deputy, shall duly file the said memorials, and shall enter or register the said memorials consecutively, in the same order in which they shall respectively come to his hand, and in such manner as to leave no blank or interval between the memorials so registered. *Registers to be authenticated. See Tables. Respecting the entry of memorials. Memorials to be filed.*

Registrars to
keep certain
books, &c.
Index of
names.

See Tables.

Index of es-
tates.

Minute or day-
book.

Married men,
tutors and cu-
rators to cause
memorials to
be registered
of all hypo-
thecs, &c., to
which their
estates shall be
liable to and in
respect of their
wives, and of
minors and
interdicted
persons.

See Tables.

XX. And be it further ordained and enacted, that every registrar to be appointed as aforesaid, shall keep in his registry office an index, to be contained in a proper book provided for that purpose, wherein shall be entered in alphabetical order the names of the persons mentioned in the memorials to be registered as aforesaid, by and to whom any real or immoveable estates, as mentioned in the said memorials, may have been alienated, hypothecated, mortgaged, charged or incumbered, and by or against whom any judgments, as mentioned in such memorials, may have been recovered, and by and against whom, as also mentioned in such memorials, any legal or tacit hypothec, or any privileged or hypothecary right or claim, may be registered as aforesaid, with reference to the entries of the memorials, as registered, of and concerning the real and immoveable estates, alienated, hypothecated, mortgaged, charged or incumbered by and to such persons, respectively, and the numbers of such entries, and the pages of the register containing such entries, and the name of the parish, township, seigniority, city, town, village or extra-parochial place where the said real or immoveable estates may be situated, so as to afford by means of an index to names as aforesaid, as far as may be practicable, an easy and ready reference to every memorial to be registered as aforesaid: And every such registrar shall keep in his registry office an alphabetical list or calendar of all parishes, townships, seigniorities, cities, towns, villages, and extra-parochial places within the district for which such registrar shall have been appointed, with references, under the respective heads of such local divisions, to all and every the entries of registered memorials relating to real or immoveable estates comprised within the said local divisions, respectively, and the numbers of such entries, and with a designation of the names of the parties mentioned in such entries, and of the real and immoveable estates to which the same may relate, so as to afford, by means of an index to estates, as far as may be practicable, a like easy and ready reference to every memorial to be registered as aforesaid: And every such registrar shall also keep a minute or day-book, in which shall be entered the year, month, day and hour, when any memorial shall be brought for registration, the names of the parties in such memorial, and of the person by whom such memorial shall be so brought, the nature of the instrument, right or claim, whereof registration is thereby required, and a general designation of the real estate intended to be affected by such memorial.

XXI. And be it further ordained and enacted, that from and after the day on which this ordinance shall come into force and effect, it shall be incumbent on married men, and on the tutors or guardians of minors, and the curators of interdicted persons, to cause and procure to be enregistered without delay, a memorial of all and every the hypothecs and incumbrances to which their lands, tenements and hereditaments, real or immoveable estates, shall become and be subject or liable to and in respect of their wives, and to and in respect of such minors and interdicted persons, respectively; and if any married man, tutor or curator, shall fail to cause or procure such memorial as aforesaid to be registered, whereby any such hypothec or incumbrance shall become and be postponed to, and rank after, a subsequent registered hypothec or incumbrance, or shall consent to or permit any subsequent hypothec or privilege to be acquired on his lands, tenements, real or immoveable estates, without expressly declaring or disclosing, in the instrument establishing such subsequent hypothec or privilege, that the same premises have already become and are subject to the hypothec of

such married woman, minors or interdicted persons, and without the reservation of priority in favor of the hypothecs last mentioned, every such married man, tutor or curator so offending in the premises, shall be held to be guilty of a fraud, to be considered a misdemeanor in law, for which an indictment shall lie, and shall be liable for all damages and costs sustained by the party injured, and for the satisfaction thereof, after judgment recovered, shall also be subject to execution against his person, and to be kept and detained in prison until the amount of damages and costs, for which judgment shall be so recovered, be paid or satisfied.

Penalty on parties contravening this section.

XXII. And be it further ordained and enacted, that from and after the day on which this ordinance shall come into force and effect, it shall be incumbent on every subrogate (*subrogé*) tutor to a minor or minors, and on the relations and friends, who shall after the said day have concurred in the election of any tutor or guardian to such minor or minors, to ascertain that a memorial has been registered, at the instance of the said tutor, of the hypothecs of such minor or minors, on the lands, tenements and hereditaments, real or immoveable estates of the said tutor, as required by this ordinance, and in default of such registration, to cause and procure a memorial of the said hypothecs to be registered without delay, in the manner prescribed by this ordinance; and if any subrogate tutor, and any such relations and friends, shall fail to execute this duty, he and they shall be jointly and severally liable for all damages that may be sustained in the premises, by the said minor or minors; and from and after the said day it shall in like manner be incumbent on the relations and friends, who shall after the said day have concurred in the election of any curator to any interdicted person or persons, to ascertain that a memorial has been registered, at the instance of the said curator, of the hypothecs of such interdicted person or persons, on the lands, tenements and hereditaments, real or immoveable estates of the said curator, as required by this ordinance, and in default of such registration, to cause and procure a memorial of the said hypothecs to be registered without delay, in the manner prescribed by this ordinance; and if such relations and friends shall fail to execute this duty, they shall be jointly and severally liable for all damages that may be sustained in the premises, by the said interdicted person or persons.

Duty of subrogate tutors and relations and friends, with respect to the registering of memorials of hypothecs, &c., of minors and interdicted persons on the estates of tutors and curators.

See Tables.

XXIII. And be it further ordained and enacted, that in case married men, tutors, curators, subrogate tutors, and the relatives and friends who shall have concurred in such election as aforesaid, shall fail to cause and procure memorials to be registered in the manner prescribed in the two next preceding sections of this ordinance, it shall be lawful in every such case, for any relation or friend of any such married man, or his wife, or for any relation or friends of any such minor or interdicted person, or for any such wife or minor, to cause and procure such memorial as aforesaid to be registered in the manner prescribed by this ordinance.

By whom the memorials mentioned in the two preceding sections may be registered in certain cases. See Tables.

XXIV. And be it further ordained and enacted, that no action shall be brought, or be maintainable, in any of Her Majesty's courts of justice in this Province, in the name, or by, or on the part of any husband, for any cause of action derived from or under his contract of marriage, whereof the registration is required by this ordinance, or in the name, or by, or on the part of any tutor or guardian to a minor or minors, or of any curator to a person or persons interdicted, in such capacities respectively, until after a memorial shall have been registered, in the manner prescribed by this ordinance.

Cases in which actions cannot be brought on the part of any husband, tutor or curator.

See Tables.

nance, of such contract of marriage, or of the appointment of such tutor or curator, respectively.

By whom memorials of hypothecs established by contracts of marriage of minors shall be registered.

XXV. And be it further ordained and enacted, that from and after the day on which this ordinance shall come into force and effect, in cases where minors shall contract marriage after the said day, it shall be incumbent on the father, mother, tutor or guardian, of any such minor, by and with whose authority and consent such marriage shall have been contracted, to cause and procure a memorial to be registered of the hypothecs established in and by the contract of marriage of such minor; and in default thereof, they and each of them, jointly and severally, shall be liable for all damages that may be sustained by such minor, by reason of the omission to register such memorial as aforesaid.

Hypothecs resulting from the appointment of tutors or curators may be restricted to certain specific lands, &c.

See Tables.

XXVI. And be it further ordained and enacted, that it shall be lawful for any judge or judges, by whom any appointment of a tutor or curator shall be made, by and with the advice and consent of the relations and friends assembled for the election of such tutor or curator, to restrict the hypothec resulting from such appointment, to certain specific lands and tenements, real or immoveable estates, of such tutor or curator; in which case, all other the lands, tenements and hereditaments, real or immoveable estates, of such tutor or curator, shall stand and be exonerated from any hypothec whatever, by reason of any such appointment; and it shall be incumbent on the tutor or curator, subrogate tutor, relations and friends, in every such case, to cause and procure a memorial to be registered, of the hypothecs on such specified lands and premises, and on none other.

And general legal hypothecs resulting from the same cause may also be subsequently restricted.

XXVII. And be it further ordained and enacted, that in cases where the hypothec resulting from the appointment of a tutor to minors, or of a curator to interdicted persons, shall not have been restricted as aforesaid by the instrument or act of appointment, and where the general legal hypothec thereby established, shall notoriously exceed a sufficient security for the gestion or administration of such tutor or curator, it shall be lawful for the judge or judges in whom the power of appointing tutors or curators in such cases resides, by and with the consent of the subrogate tutor, and with the advice of the relations and friends of any such interdicted person, to be assembled for that purpose, to restrict the hypothec, in such cases, to such specific lands and tenements as may afford a complete security to such minor, or interdicted person; and thereupon, and after the registration of a memorial of such restricted hypothec, all other the lands, tenements, hereditaments, real or immoveable estates, of any such tutor or curator, shall stand and be exonerated from any hypothec whatever, for or by reason of the appointment of such tutor or curator.

Respecting general hypothecs.

Conventional hypothecs to be special.

XXVIII. And be it further ordained and enacted, that from and after the day on which this ordinance shall come into force and effect, no general hypothec shall be stipulated in, or constituted by, or result from, any deed, contract or obligation in writing whatsoever, to be thenceforward made and entered into; and no conventional hypothec, charge or incumbrance on lands, tenements or hereditaments, real or immoveable estates, shall, from and after the day last aforesaid, be constituted or acquired, in or by virtue of any deed, contract or obligation in writing, which shall be executed or made after that day, before a notary or witnesses, or before notaries, or before any court of justice or judge, or otherwise howsoever, unless the lands, tenements and hereditaments, real or immoveable estates, intended or

alleged to be hypothecated, charged or incumbered, by such deed, contract or obligation in writing, or such acknowledgment thereof, or by which any such hypothec may be claimed, be therein specially described; nor unless the sum of money intended to be secured by such hypothec, charge or incumbrance be, in the same deed, contract or obligation in writing, or the acknowledgment thereof, specified; and no such hypothec as last aforesaid shall be constituted or acquired for any other purpose than for securing the payment of a sum or sums of money specially mentioned as aforesaid.

And for a sum certain.

XXIX. And be it further ordained and enacted, that from and after the day on which this ordinance shall come into force and effect, no legal or tacit hypothec shall, for any cause whatsoever, be constituted or subsist on lands, tenements or hereditaments, real or immoveable estates in this Province, except for the causes and in the cases following, that is to say;—upon the lands, tenements and hereditaments, real and immoveable estates of married men, to and in respect of their wives, for securing the restitution and payment of all dotal sums of money, claims and demands, which they may have on their husbands, for or by reason of any succession or inheritance which may devolve upon and accrue to such married women, and of any donation which may be made to them during the continuance of their marriage, which hypothec shall be accounted from the respective periods at which such succession or inheritance shall so devolve and accrue, or such donation shall receive execution;—and upon the lands, tenements and hereditaments, real or immoveable estates of tutors or guardians to minors and curators to interdicted persons, to and in respect of such minors and interdicted persons, as a security for the due administration of such tutors and curators, and the payment of all sums of money which they may be found to owe, at the close of their administration; and upon the lands, tenements and hereditaments, real or immoveable estates of debtors and persons who have contracted and entered into, or shall or may contract or enter into any debt, suretyship, engagement or liability to Her Majesty, Her Heirs or Successors, for and in respect of which an hypothec is established and allowed by the existing laws of this Province; any law, usage or custom, to the contrary thereof in any wise notwithstanding.

No legal or tacit hypothec to be constituted, except for the causes and in the cases prescribed in this section. Married women. See Tables.

Minors and interdicted persons.

The Crown.

XXX. And be it further ordained and enacted, that from and after the day on which this ordinance shall come into force and effect, no hypothec shall be constituted by or derived from any judgment, judicial act or proceeding, to be rendered, made or had after that period, on any lands, tenements or hereditaments, real or immoveable estates of the defendant or defendants, debtor or debtors, against whom such judgment, judicial act or proceeding shall be rendered, made or had, than those whereof any such defendant or debtor shall be seized and possessed, at the time of the rendering of such judgment, or the accomplishment and completion of such judicial act or proceeding; which last mentioned lands, tenements and hereditaments, real and immoveable estates, shall alone be thereby bound; nor shall any hypothec be established by, or derived from any judgment, judicial act or proceeding, which shall not award a specific sum of money, and such hypothec shall be established and subsist for and in respect of such sum of money only; save and except judgments containing an adjudication of interest and costs of suit, or of interest and costs only, which adjudication may be made, as now practiced, without the express mention of the amount of interest or costs in the judgment, and shall nevertheless carry with it an hypothec; any law, usage or custom to the contrary thereof in any wise notwithstanding.

Respecting hypothecs derived from judgments, and judicial acts or proceedings.

See Tables.

- Who shall be adjudged to be privileged creditors. Vendors. See Tables. Lenders of money to purchase estates.
- XXXI. And be it further ordained and enacted, that the privileged creditors of whose privileges and privileged rights and claims, memorials shall and may be registered in pursuance of this ordinance, are and shall be adjudged to be the following, that is to say :—firstly, the vendor, upon and in respect of the real estate sold by him, for the recovery of the price thereof,—secondly, the persons by whom money to be applied to the purchase of real estate has been lent and advanced, provided that it be ascertained by the instrument or writing evidencing the loan, that it was intended to be so applied, and by the acquittance of the vendor, that the payment of the price was made by and with the money so lent and advanced,—thirdly, co-heirs and co-partitioners, upon and in respect of the real estates of the succession, and the real estates held by them as tenants in common, for the execution of the warranty incident to the partition made among them, and for the difference and return in money (*soulte et retour*), to make up for the inequality of lots included in any such partitions,—fourthly, architects, builders or other workmen employed in the building, re-building or repair of buildings, canals, or other erections or works; provided that by an *expert* named by any judge of the court of King's bench for the district, or by the judge of the district court in the judicial district within which the buildings or premises aforesaid are situated, there shall have been previously made a *procès verbal*, establishing the state of the premises, in respect of the works about to be made; and provided also, that within six months after the completion of such works, the same shall have been accepted and received by an *expert*, in like manner named; and provided also, that the privilege in such cases shall in no instance extend beyond the value ascertained by such second *procès verbal* as aforesaid, and shall be reducible to the amount of increased value given to the premises by such works, at the period of the alienation of the real estate on which the said works shall have been erected or made,—fifthly, the lenders of money applied to the payment of the workmen, in such cases as last aforesaid, provided that such intended application of the money lent, be ascertained by the instrument or writing evidencing the loan, and that it be ascertained by the acquittance of such workmen, that they were paid and satisfied by and with the money so loaned.
- Co-heirs, &c.
- Architects, workmen, &c.
- Lenders of money to pay workmen.
- Relating to the privilege of co-heirs.
- And of architects, builders, workmen, &c.
- Of creditors and legatees of debtors.
- XXXII. And be it further ordained and enacted, that in the cases herein before mentioned, of partition of estates by and between co-heirs or co-partitioners, and also of sales by licitation at their instance, the privilege of such co-heirs or co-partitioners, for the difference or return in money as aforesaid, and of the price of the sale by licitation, shall remain and be preserved from the period of the partition or of the sale by licitation, provided a memorial of the same be registered within thirty days from those periods respectively, during which no *hypothec* shall be established or acquired on the estate charged with the pecuniary demands now mentioned, or either of them, to the prejudice of the creditor of such difference or return in money, or of such price; and in cases where the privilege of architects, builders and workmen, and the lenders of money applied to the payment of such workmen, may obtain as aforesaid, the said privilege shall be accounted from the registration of the memorial of the first *procès verbal*, establishing the state of the premises, provided a memorial of the second *procès verbal*, establishing the acceptance of the work, shall have been registered within thirty days from the date of such second *procès verbal*; and in case of creditors or legatees, who may demand, or be entitled to

demand the separation of the estates of their deceased debtor, or deceased testator, from those of his heir or legal representative, the hypothec, rights and interest of such creditors and legatees, in and to the estates of every such debtor or testator, shall remain and be preserved in their full force, provided a memorial of such their rights be registered, in respect of each and every of the said estates, within six months after the death of any such debtor or testator; and during the said period of six months, no hypothec shall be established by the heir or legal representative of such debtor or testator, on any such estates, or be acquired thereupon, to the prejudice of such creditors or legatees: Provided always, and be it further ordained and enacted, that the privileged debts hereinbefore mentioned, whereof a memorial shall not be registered within the time limited as aforesaid, shall, nevertheless, retain their hypothecary character, and there shall be attached to them an hypothec, in respect of third persons, from the period at which a memorial thereof shall be registered as required by this ordinance.

Proviso with respect to privileged debts.

XXXIII. And be it further ordained and enacted, that from and after the day on which this ordinance shall come into force and effect, in all cases where donations or deeds of gift, *inter vivos*, may be made of lands, tenements and hereditaments, real or immoveable estates, situated in this Province, whereof the registration is required by law, it shall be lawful to register a memorial of every such donation or deed of gift, *inter vivos*, in the registry office for the district in which such lands, tenements and hereditaments, real or immoveable estates shall be situated, in the manner prescribed by this ordinance, instead of a registration thereof at full length, at the place or places and in the manner required by the laws now in force in this Province; and a memorial of such donation or deed of gift, *inter vivos*, registered as aforesaid, shall have the same force and effect, in respect of such real or immoveable estates so situated, to all intents and purposes whatsoever, as such registration thereof at full length, in pursuance of the said laws, would or might have; any law, usage or custom to the contrary thereof in any wise notwithstanding.

How donations or deeds of gift *inter vivos*, are to be registered.

XXXIV. And whereas, the alienation of the real estates of married women, held in free and common soccage, and those held under other and different tenures in this Province, is governed by different rules; And whereas, it is expedient that such alienations of real estates, under whatever tenure the same be held, should be governed by the same rules:—Be it therefore ordained and enacted, that from and after the day on which this ordinance shall come into force and effect, it shall be lawful for any married woman, being of the age of twenty-one years or upwards, residing within this Province, and seized of lands, tenements or hereditaments, real or immoveable estates, held in free and common soccage, or *en fief*, or *à titre de cens*, or *en franc aleu*, or under any other tenure whatever, and situated in this Province, by deed or conveyance, to be made and executed jointly with her husband, to sell, alien and convey, any such lands, tenements or hereditaments, real or immoveable estates, for and upon such considerations and conditions, and to and for such use and uses, as to her and her husband shall seem meet: Provided always, that before the execution of any such deed or conveyance, every such married woman shall be examined apart from her husband, before one of the judges of the court of Queen's bench or common pleas, for this Province, or before any district court in any district in this Province, touching her consent to the sale or alienation to be effected

Married women seized of lands, &c., may alienate the same by deed executed jointly with their husbands.

See Tables.

Proviso. The wife to be examined, if resident in this Province.

But not if
resident else-
where.

Deed to be
valid.

And there
shall be no hy-
pothec on the
property of the
husband for
indemnity.

Married wo-
men may join
with their hus-
bands in the
alienation of
lands, &c.,
which may be
liable for their
legal or custo-
mary dower.

See *Tables*.

And there
shall be no
hypothec on
the property
of the husband
for indemnity.

Married wo-
men not to be-
come security
for their hus-
bands, except
as *communes*
en biens with
them.

by any such deed or conveyance, and shall have declared before such judge or court, that without any coercion, or fear of coercion, on the part of her husband, she gives her free and voluntary consent to such sale or alienation; which consent shall be certified, on the back or at the bottom of every such deed, by the judge or court before whom the same shall have been declared, as aforesaid: And provided also, that when any such married woman shall reside without the limits of this Province, it shall be lawful for her, by deed or conveyance, made and executed jointly with her husband, to sell, alien and convey any such lands, tenements or hereditaments, real or immoveable estates, whereof she may be seized as aforesaid, without any previous examination, or declaration of her consent, as hereinbefore required: And every such deed and conveyance shall have the same force and effect, as if executed by such married woman while sole: And provided also, that for or by reason of any such sale or alienation of the real or immoveable estates of any married woman as aforesaid, no legal or tacit hypothec shall be constituted or subsist, on the real or immoveable estates of the husband of such married woman, for any compensation or indemnity, to or for such married woman, on account of such sale or alienation; nor shall any privilege or hypothecary right or claim, for any such compensation or indemnity, at any time afterwards, be made or exercised by any such married woman, or her legal representatives, or any of them.

XXXV. And be it further ordained and enacted, that from and after the day on which this ordinance shall come into force and effect, it shall be lawful for any married woman, being of the age of twenty-one years or upwards, to join with her husband in the sale or alienation of lands and tenements, real or immoveable estates, held in free and common soccage, or *en fief*, or *à titre de cens*, or *en franc aleu*, or under any other tenure whatever, which shall or may be subject or liable to or for her legal or customary dower, and in any deed or conveyance which may be made for the purpose of such sale or alienation, to release her dower and right to dower, in and upon, all or any part of the lands and tenements, real and immoveable estates, so sold or alienated; and such release shall effectually extinguish her dower, and right to dower, in and upon the lands and tenements, real or immoveable estates, in respect of which such release shall be granted, and be held and taken to be a valid bar to any right or claim to dower of such married woman, in or upon any such premises; and no hypothec shall be constituted, attach or subsist, on any other the lands and tenements, real or immoveable estates of the husband, by whom such alienation, jointly with his wife, shall be made, for any compensation or indemnity, to or for such married woman, on account of such sale or alienation; nor shall any privileged or hypothecary right or claim to such compensation or indemnity, or any privileged or hypothecary recourse of any kind, accrue to or become vested in her heirs, or other legal representatives, or assigns, for or by reason of any such release of dower as aforesaid; any law, usage or custom, to the contrary notwithstanding.

XXXVI. And be it further ordained and enacted, that from and after the day on which this ordinance shall come into force and effect, it shall not be lawful for any married woman to become security or responsible, or incur any liability whatever, in any other capacity, or otherwise, than as *commune en biens* with her husband, for the debts, contracts or obligations which may have been contracted or entered into by her husband before their marriage, or which may by her said husband be contracted or entered into,

at any time during the continuance of any such marriage; and all suretyships, contracts or obligations, made or entered into by any married woman after the day last mentioned, in violation of this enactment, shall be absolutely null and void to all intents and purposes whatsoever.

XXXVII. And be it further ordained and enacted, that from and after the day on which this ordinance shall come into force and effect, the legal or customary dower, and the right to legal and customary dower of the child, children, or issue of any marriage, shall be had and exercised, solely and exclusively, upon and in respect of lands, tenements, real or immoveable estates, subject to the dower of his, her or their mother, whereof his, her or their father was seized and possessed at the time of his death, and also upon and in respect of those on which the dower and right of dower of his, her, or their mother, may not have been by her released or barred, during the continuance of her marriage, and not upon any other lands and tenements, real or immoveable estates whatever; any law, usage or custom, to the contrary thereof, in any wise notwithstanding.

On what property the legal and customary dower of children shall be exercised.

See Tables.

XXXVIII. And whereas, it is highly expedient in all cases of sales, to facilitate the valid and effectual alienation and conveyance of lands, tenements and hereditaments, real or immoveable estates, held in free and common socage, by establishing a short, inexpensive and legal form of conveyance of the same:—Be it therefore ordained and enacted, that from and after the day on which this ordinance shall come into force and effect, an indenture, deed or writing of bargain and sale, made, sealed and delivered before two witnesses, or made and executed before one notary and two witnesses, or before two notaries, whereby the intention of the bargainor to sell, and of the bargainee to purchase an estate of inheritance or freehold, in any such lands and premises, shall be made manifest, shall be a good and valid conveyance for transferring, passing and assuring to the bargainee, his heirs and assigns, not only the use of and in the same, but also the lawful seizin, estate of inheritance or freehold and possession of the bargainor, of and in all and every such lands, tenements and hereditaments, real or immoveable estates, with their appurtenances, without any livery of seizin, attornment, or other formality whatsoever; and every such indenture, deed or writing of bargain and sale may be in the form contained in the schedule number three, to this ordinance subjoined, or in any other form or words to the same effect, and shall admit and be susceptible of all the covenants, dispositions and clauses, which may or might legally be introduced into, or make part of a conveyance by feoffment, or lease and release; any law, usage or custom to the contrary notwithstanding.

What shall be deemed a valid conveyance of real estate held in free and common socage

See Tables.

Form of such conveyance may be as in schedule No. 3.

XXXIX. And be it further ordained and enacted, that in all indentures, deeds or writings of bargain and sale, made as aforesaid, after the day on which this ordinance shall come into force and effect, whereby an estate of inheritance in fee simple is limited to the bargainee and his heirs, the words, "grant, bargain and sell," shall import and be construed and adjudged, in all courts of judicature, to be express covenants to the bargainee, his heirs and assigns, from the bargainor, for himself, his heirs, executors, curators and administrators, that the bargainor, notwithstanding any act done by him, was, at the time of the execution of such indenture, deed or writing, seized of the hereditaments and premises thereby granted, bargained and sold, as of an indefeasible estate in fee simple, free from all incumbrances, (rents and services due to the lord of the fee only, excepted,) and for quiet enjoyment thereof, against the bargainor, his heirs and assigns, and all claiming

How certain words to be used in a deed of bargain and sale of real estate held in free and common socage, are to be construed.

See Tables.

under him, and also for further assurance thereof, to be made by the bargainor, his heirs and assigns, and all claiming under him; unless the same shall be restrained and limited by express particular words contained in such indenture, deed or writing; and the bargainee, his heirs, executors, curators, administrators and assigns, respectively, shall and may, in any action to be brought, assign a breach or breaches thereupon, as they might do in case such covenants were expressly inserted in such bargain and sale.

Deeds, wills, &c., executed before witnesses, under which titles to lands, &c., situate in the Province may be claimed, to be registered at full length. See Tables

XL. And whereas it is necessary to make provision for the preservation of titles to real estates, which have been, and may be executed before witnesses:—Be it therefore ordained and enacted, that from and after the day on which this ordinance shall come into force and effect, any person or persons having or claiming title to any lands, tenements or hereditaments, real or immoveable estates situated in this Province, may register at full length in the registry offices aforesaid, respectively, all and every or any of the deeds, conveyances, wills or writings, executed before witnesses, by or under which such title shall be claimed; and the said registrars or their deputies, respectively, are hereby authorized to enter and register all such deeds, conveyances, wills and writings as shall be so brought to be registered, at full length, by engrossing them in books bound in leather; and the said registrars, or their deputies, respectively, shall in the margin of every such entry, mention the time of every such entry and registration, and shall indorse and sign a certificate on such deed, conveyance, will or writing, in manner as by this ordinance is directed, when a memorial is entered, and shall safely keep all and every the books wherein such entries and registrations shall be made, in the said public offices, respectively, there to remain upon record; and all copies of such entries and enrolments of such deeds, conveyances, wills and writings, so registered at full length, which shall be certified and signed by the said registrars or their deputies, respectively, shall be allowed, in all courts of justice, to be good and sufficient evidence of such deeds, conveyances, wills and writings, so registered, and which may be destroyed by fire or other accident.

And certified copies of such registration to be allowed as evidence.

One of the witnesses to make oath to due execution or signing of any such deed, will, &c.

XLI. And be it further ordained and enacted, that at the time any deed, conveyance, will or writing shall be brought to the registrar's office to be registered or enrolled at full length as aforesaid, one of the witnesses to the execution of such deed, conveyance or writing, or to the signing and publishing of such will, shall make oath before the said registrar or his deputy, that such deed, conveyance or writing was duly executed by the grantor or grantors, or that such will was signed by the devisor or testatrix, which oath the said registrar or his deputy is empowered and required to administer.

Deeds, wills, &c., executed in the Province, but out of the district in which the lands, &c., shall lie, may also be registered at full length, on a certain affidavit being produced.

XLII. Provided always, and be it further ordained and enacted, that such deeds, conveyances, wills and writings as shall be made and executed, or published, in any place in the said Province, not being within the district in which the lands, tenements and hereditaments therein mentioned lie, may be entered and registered at full length, by the aforesaid registrar or his deputy, in case an affidavit, sworn before one of the judges of the court of Queen's bench or common pleas, or before any district court, be brought with such deed, conveyance, will or writing, to the said registrar or his deputy, wherein one of the witnesses to the execution of such deed, conveyance or writing, or to the signing and publishing of such will, shall swear that he or she saw the said deed, conveyance or writing executed, or, in case of wills, such will signed and published by the devisor or testatrix.

XLIII. Provided also, and be it further ordained and enacted, that such deeds, conveyances, wills and writings, as shall be made and executed, or published, in any part of Great Britain or Ireland, or in any colony or possession belonging to the Crown of the United Kingdom of Great Britain and Ireland, may be entered and registered at full length by the registrar of any district in this Province, or his deputy, in case a like affidavit, sworn before the mayor or chief magistrate of any city, borough, or town corporate in Great Britain or Ireland, or the chief justice, or a judge of the supreme court, of any such colony or possession, be brought with such deed, conveyance, will or writing to the said registrar, or his deputy: And provided also, and be it further ordained and enacted, that such deeds, conveyances, wills and writings, as shall be made and executed, or published, in any foreign state, may be entered and registered at full length, by any such registrar, in case a like affidavit, sworn before any minister plenipotentiary, or minister extraordinary, or a *chargé d'affaires*, or any consul of Her Majesty, Her Heirs or Successors, resident and accredited within such foreign state, (who is hereby empowered to administer the oath in this behalf) be brought with such deed, conveyance, will or writing, to the said registrar or his deputy.

And also deeds, wills, &c., executed out of the Province, but in H. M. dominions.

Proviso: as to foreign states.

XLIV. And be it further ordained and enacted, that every such registry of full length, of such deeds, conveyances, wills and writings, in the said registry offices as aforesaid, shall be deemed and adjudged to be the entry of a memorial thereof pursuant to this ordinance, and shall have the same force and effect, upon the estate or estates therein mentioned, in relation to all subsequent deeds, conveyances, wills and writings, and to all other intents and purposes, as if a memorial of such deed, conveyance, will or writing, so registered at full length, had been entered and registered in the said registry office as aforesaid, pursuant to this ordinance; and the certificate signed and indorsed on such deeds, conveyances, wills and writings, registered at full length, shall be taken and allowed as evidence of such registry, in all courts of justice whatsoever.

Every such registry to be deemed to be the entry of a memorial of such deed, will, &c.

XLV. And be it further ordained and enacted, that in case of mortgages, notarial obligations, judgments, judicial acts and proceedings, recognizances, privileged and hypothecary rights and claims, whereof memorials shall be entered in the said registrar's office as aforesaid, and in case of mortgages where the mortgage deed shall be registered at full length, pursuant to this ordinance, if at any time afterwards a certificate shall be brought to the said registrar or his deputy, signed by the mortgagee in such mortgages, the creditors named in such notarial obligations, the plaintiffs in such judgments, the cognizees in such recognizances, the hypothecary or privileged creditors named in such judicial acts or proceedings, privileged rights or claims, their respective heirs, executors, curators, administrators, or assigns, and attested by two witnesses, whereby it shall appear that all monies due on such mortgage, notarial obligation, judgment, judicial act or proceeding, recognizance, privileged or hypothecary right or claim, respectively, have been paid or satisfied, in discharge thereof, which witnesses shall, upon their oath before any one of the judges of the court of Queen's bench, or common pleas, or before the said registrar or his deputy, who are hereby respectively empowered to administer such oath, prove such monies to be satisfied or paid accordingly, and that they saw such certificate signed by the said mortgagees, hypothecary or privileged creditors, plaintiffs or cognizees, their respective heirs, executors, curators, administrators, or assigns,—then and

Proceedings to be adopted by registrars upon production of certificates that all monies due on mortgages &c. have been paid and satisfied.

See Tables.

in every such case, the said registrar or his deputy, shall make an entry in the margin of the register, against the registry of the memorial of such mortgage, notarial obligation, judgment, judicial act or proceeding, recognizance, privileged right or claim, or against such deed registered at full length, respectively, that such mortgage, notarial obligation, judgment, judicial act or proceeding, recognizance, privileged right or claim, has been satisfied and discharged according to such certificate, to which the same entry shall refer, and shall afterwards fyle such certificate, to remain upon record in the said registry office.

Forms of memorials and certificates of discharge..

See Tables.

XLVI. And be it further ordained and enacted, that memorials and certificates of discharge, to be registered in pursuance of this ordinance, may be in the forms contained in the schedule number four, to this ordinance subjoined, or in any other form by which the requirements of this ordinance may be fulfilled.

Duty of registrars who shall cease to hold office, and of the heirs, &c., of those who shall die.

XLVII. And be it further ordained and enacted, that whenever the registrar of any district shall cease to be such registrar, in consequence of his resignation or removal from office, and when any such registrar shall die, it shall be the duty of every such registrar who shall cease to hold the said office, and of the heirs, executors, curators, or other legal representatives of every such registrar who shall die, to deliver to the successor of every such registrar who shall so resign, be removed or die, on his demand, all and every the registers, books, indexes, memorials, records, documents, and papers appertaining to the office of such registrar; and in case the registrar so resigning or removed from office, or the heirs, executors, curators, or other legal representatives of any such deceased registrar, shall refuse or neglect to deliver to the successor of every such registrar, all such registers, books, indexes, memorials, records, documents and papers, as aforesaid, they, each and every of them, so refusing or neglecting, shall be held to be guilty of a misdemeanor, in having disobeyed this enactment, and shall besides be liable to make satisfaction to the parties aggrieved or injured, for all such damages and costs as he, she, or they shall sustain by reason of such refusal or neglect.

Penalty for contravening this section.

Fees to be taken by registrars.

See Tables.

XLVIII. And be it further ordained and enacted, that every such registrar, to be appointed as aforesaid, shall be allowed for the filing, entry and registration of every memorial to be registered in pursuance of this ordinance, the sum of two shillings and six pence, and no more, in case the number of words therein do not exceed four hundred words, but if such memorial shall exceed four hundred words, then after the rate and proportion of six pence for every hundred words contained in such memorial, over and above the first four hundred words, and the like fees for the like number of words contained in every deed, conveyance, will and writing, registered at full length as aforesaid, and in every certificate or copy given at the said office and no more; and for every search in the said office, if the names of the parties to, or who have executed the deed or instrument to be searched for, be given, one shilling and no more, and when the names of the parties are not given, two shillings, and no more.

Hours of attendance at the office of every registrar.

XLIX. And be it further ordained and enacted, that every registrar to be appointed as aforesaid, or his sufficient deputy, shall give due attendance at his office, every day in the week, excepting Sundays and holidays, between the hours of nine in the forenoon and three in the afternoon, for the despatch of all business belonging to the said office; and every such registrar, or his deputy, as often as required, shall make searches concerning

Searches.

all memorials that are registered, and all deeds, conveyances, wills and writings registered at full length as aforesaid, and give certificates concerning the same, under his hand, if required by any person.

L. And be it further ordained and enacted, that if any such registrar, to be appointed as aforesaid, or his deputy, shall neglect to perform his or their duty, in the execution of the said office, according to the rules and directions in this ordinance contained, or commit or suffer to be committed any undue or fraudulent practice in the execution of the said office, and be thereof lawfully convicted, then and in every case, such registrar shall forfeit his said office, and pay treble damages, with full costs of suit, to every person or persons that shall be thereby injured, to be recovered by action of debt or information, in any of Her Majesty's courts of record in this Province.

Penalty on registrars for neglect of duty, &c.

LI. And be it further ordained and enacted, that if any person or persons shall at any time forge or counterfeit any such memorial, certificate or indentment, as is hereinbefore mentioned or directed, and be thereof lawfully convicted, every such person so offending shall incur and be liable to pains and penalties, as in and by an act made in the fifth year of the reign of Queen Elizabeth, intituled, *An act against forgery of false deeds and writings*, are imposed upon persons, for forging and publishing false deeds, charters or writings sealed, court-rolls or wills, whereby the freehold or inheritance of any person or persons, of, in, or to any lands, tenements and hereditaments, shall or may be molested or changed; and that if any person shall, at any time, forswear himself before any registrar appointed as aforesaid, or his deputy, or before any judge, district court, or person hereby authorized to administer an oath in any of the cases hereinbefore mentioned, and be thereof lawfully convicted, every such person or persons so offending shall incur and be liable to the same penalties, as if he or she were guilty of wilful and corrupt perjury, in any of Her Majesty's courts of record in this Province.

Penalties on persons forging, &c., any memorial, certificate, or indentment.

And on persons forswearing themselves.

LII. And be it further ordained and enacted, that the provisions of this ordinance shall extend to, include, and be binding on Her Majesty, Her Heirs and Successors, in all the particulars herein contained; and memorials to be registered for and on behalf of Her Majesty, Her Heirs or Successors, in pursuance of this ordinance, may be made and executed by the receiver general of the Province, or the secretary and registrar of the Province, or the inspector general of Her Majesty's domain, or by any other person holding an office under the government of Her Majesty, Her Heirs or successors in this Province, and having in his hands, custody or power, the title, deed, will, notarial obligation, judgment, instrument or writing, or a notarial or office copy thereof, or probate of such will, whereof a memorial is to be and may be registered; and every memorial to be registered for and on behalf of Her Majesty, Her Heirs or Successors, shall express and contain the name, office and place of abode of the person by whom such memorial shall be made, the name, place of abode and addition of the debtor or person against whom such memorial is to be and may be registered, the date and nature of the title, conveyance, instrument, written security, document or writing, to which such memorial shall relate, and therein mentioned, and the nature and amount (if the amount be ascertained) of the debt, right, claim, demand or liability, for and in respect of which such memorial is to be and may be registered.

Relating to memorials to be registered on behalf of the Crown which shall be bound by the provisions of this ordinance.

See Tables.

The acts 10
& 11 G. 4. c.
8, 1 W. 4. c. 3,
and 4 W. 4.
c. 5, establish-
ing county
registry offices,
repealed.

* Sic.

* Sic.

The repeal of
said acts not
to invalidate
any thing done
previously to
such repeal.

Where the re-
gisters, &c.,
appertaining
to said offices
are to be de-
posited.

See Tables.

Every registry
of deeds, &c.,
under the said
acts to have
the same effect
as if memo-
rials thereof
had been regis-
tered in a dis-
trict registry
office.

One uniform
set of books to
be furnished
each registry
office at the
cost of the
Province.

LIII. And be it further ordained and enacted, that a certain act of the legislature of this Province, made and passed in the session held in the tenth and eleventh years of the reign of His late Majesty King George the Fourth, intituled, *An act to establish registry offices in the counties of Drummond, Sherbrooke, Stanstead and Missiskoui,** and also a certain other act of the same legislature, made and passed in the first year of the reign of His late Majesty King William the Fourth, intituled, *An act to amend an act passed in the eleventh year of the reign of His late Majesty, intituled, "An act to establish registry offices in the counties of Drummond, Sherbrooke, Stanstead, Shefford and Missiskoui," and to extend the provisions of the said act,* and also a certain other act of the same legislature, made and passed in the fourth year of the reign of His late Majesty King William the Fourth, intituled, *An act to extend the provisions of the act to establish registry offices in the counties of Drummond, Sherbrooke, Shefford and Missiskoui,* to lands held in free and common soccage, in the counties of the Lake of the Two Mountains and Acadie,* shall, from and after the day on which this ordinance shall come into force and effect, be, and the same are hereby repealed: Provided always, and be it further ordained and enacted, that the repeal of the said three last mentioned acts of the legislature of this Province as aforesaid, shall not invalidate any act, matter or thing done previously to such repeal, nor alter, impair, or affect any title or right acquired under the provisions of the said acts, or any of them; but every such act, matter and thing, title and right, shall have the same force and effect as if this ordinance had not been made: And provided also, and be it further ordained and enacted, that all and every the registers, books, indexes, records, documents and papers, appertaining to the county registry offices established under and in pursuance of the said three acts of the legislature of this Province, shall be transmitted by the county registrars of the said county offices, respectively, or the persons who now hold the said offices, into the registry office for the district within which such county registry offices as aforesaid, shall respectively be situated, there to remain and make part of the records of such district registry office, in the custody of the registrar thereof, for the time being: And provided also, and be it further ordained and enacted, that every registry, at full length, of deeds, conveyances, contracts of marriage, wills and writings, or of any clause or part thereof, in the county registry offices aforesaid, in pursuance of the said last mentioned three acts of the legislature of this Province, or any of them, shall be deemed and adjudged to be the entry of a memorial thereof, pursuant to this ordinance, and shall have the same effect upon the estates therein mentioned, in relation to all subsequent deeds, conveyances, contracts of marriage, wills and writings, and to all other intents and purposes, as if a memorial of any such deed, conveyance, contract of marriage, will or writing, or of any such clause or part thereof, had been entered in a district registry office, pursuant to this ordinance; and the certificate signed and indorsed on such deeds, conveyances, wills and writings, registered at full length, shall be taken and allowed as evidence of such registries, in all courts of justice whatsoever.

LIV. And with a view to the use of a uniform set of books, in the several registry offices in this Province:—Be it further ordained and enacted, that it shall be incumbent on the secretary and registrar of this Province, under such directions in this behalf as he may receive from the Governor of this Province, to provide for and transmit, to each of the registry offices to

be established in pursuance of this ordinance, on or before the day on which this ordinance shall come into force and effect, a uniform set of books, to be used in each of the said offices, respectively, as a register, indexes, and minute or day-book, the cost of which books shall be defrayed out of any unappropriated monies in the hands of the receiver general of this Province; and like books, when required, shall from time to time be provided by the said registrars, respectively, for their respective offices, at their own expense.

LV. And be it further ordained and enacted, that it shall be lawful for the Governor of this Province, by warrant under his hand and seal, from time to time, when he may deem it necessary or expedient, to authorize and require the attorney or solicitor general, or other law officer of the Crown, or some other fit and proper person or persons, to visit the several or any of the registry offices established in pursuance of this ordinance, and to inquire into and examine the state and condition of such offices, respectively, and the registers, books, indexes, memorials, documents and papers therein, appertaining to such offices, respectively, and to ascertain whether the provisions of this ordinance be, or be not, therein well and sufficiently executed; of which visit and examination, a report in writing shall, by the person or persons authorized as aforesaid, be made to the Governor of the Province, by whom the same shall be laid before the provincial legislature, at the next following session thereof.

The registry offices to be visited by a Crown law officer, to ascertain whether the provisions of this ordinance be properly executed.

LVI. And be it further ordained and enacted, that the words, "Governor of this Province," wherever they occur in the foregoing enactments, shall be understood as meaning and comprehending the Governor, or the person authorized to execute the commission of Governor, within this Province, for the time being.

Meaning of words.

See Tables.

LVII. And be it further ordained and enacted, that it shall be lawful for the Governor of this Province, with the advice of Her Majesty's executive council, by his proclamation in this behalf, to fix and declare the day from and after which this ordinance shall have force and effect: Provided, that such day shall not be later than the thirty-first day of December, which will be in the year of Our Lord, one thousand eight hundred and forty-one.

The day from which this ordinance shall have force to be fixed by proclamation.

See Tables.

LVIII. And be it further ordained and enacted, that if at the time when the proclamation mentioned in the next preceding section shall issue, a certain ordinance passed in the fourth year of Her Majesty's reign, and intitled, *An ordinance to provide for the more easy and expeditious administration of justice, in civil causes and matters involving small pecuniary value and interest, throughout this Province*, shall not be in force, then it shall be lawful for the Governor of this Province, in and by the proclamation aforesaid, to divide this Province into districts for the purposes of this ordinance, and to declare and appoint that any one or more of the municipal districts into which this Province may be divided, under the authority of a certain ordinance passed in the present session of the legislature of this Province, and intitled, *An ordinance to provide for the better internal government of this Province, by the establishment of local or municipal authorities therein*, shall, from and after the day to be appointed in such proclamation, form, or shall be united into, a district for all the purposes of this ordinance; and that a registry office shall, from and after the said day, be kept in and for each district so constituted, in and for the purposes of this ordinance, at such place as shall be appointed in such proclamation; and it shall be lawful for the Governor of this Province, by any

What proceeding may be had in case the ord. 4 Vict. c. 48, shall not be in force when the said proclamation shall issue.

See Tables.

proclamation to be issued in like manner, at any time before the twenty-ninth day of December, in the year of Our Lord, one thousand eight hundred and forty-two, to change the place at which the registry office shall be held in any district to be constituted in the manner mentioned in this section ; any thing in any part of this ordinance contrary to the provisions of this section notwithstanding.

This ordinance to be permanent and a public act.

LIX. And be it further ordained and enacted, that this ordinance and the provisions herein contained, shall not cease or expire on the first day of November, which shall be in the year of Our Lord, one thousand eight hundred and forty-two, but shall be and remain a permanent and public law, and in force in this Province, until the same shall be repealed or altered by competent legislative authority : And all judges, justices, and other persons therein concerned, shall take notice thereof, though the same be not specially pleaded.

SCHEDULES.

SCHEDULE NO. ONE—REFERRED TO IN THE FOREGOING ORDINANCE.

Oaths to be taken by registrars and deputy registrars of districts.

ONE—OATH OF ALLEGIANCE.

“ I, A. B., do sincerely promise and swear, that I will be faithful, and “ bear true allegiance to Her Majesty Queen Victoria : So help me God.”

TWO—OATH OF OFFICE TO BE TAKEN BY REGISTRARS AND DEPUTY REGISTRARS.

“ I, A. B., registrar (*or deputy registrar, as the case may be,*) for the “ district of do solemnly swear, that I will truly, honestly “ and faithfully perform and execute the office of registrar (*or deputy registrar, as the case may be,*) for the district of and all and “ every the duties enjoined and required to be done and performed by me “ as such registrar, (*or deputy registrar,*) in and by an ordinance of the “ legislature of this Province, made and passed by the Governor of this “ Province, by and with the advice and consent of the special council for “ the affairs thereof, intituled, *An ordinance, &c., (title of this ordinance,)* so long as I shall continue in the said office ; and that I have “ not given or promised, directly or indirectly, nor authorised any person “ to give or promise, any money, gratuity or reward whatsoever, for procuring or obtaining the said office for me : So help me God.”

SCHEDULE NUMBER TWO—REFERRED TO IN THE FOREGOING ORDINANCE.

Condition of recognizance to be entered into by registrars for districts.

“ Whereas the said A. B. hath been appointed registrar for the district “ of , in pursuance of an ordinance or law of this Province, “ made and passed by the Governor of this Province, by and with the advice and consent of the special council for the affairs thereof, in the fourth “ year of Her Majesty’s reign, intituled, *An ordinance, &c., (title of this ordinance ;)* Now, the condition of this recognizance is such, that if the “ said A. B. do and shall well and truly, honestly and faithfully, execute “ the said office, and perform and fulfil all and every the said duties enjoined and required to be done and performed by him as such registrar, “ in and by the said ordinance or law, in all things therein mentioned,

"then this recognizance to be void and of no effect; otherwise to be and remain in full force and virtue."

SCHEDULE NUMBER THREE—REFERRED TO IN THE FOREGOING ORDINANCE.

Form of a deed of bargain and sale executed before witnesses.

"This indenture, made the _____ day of _____, &c.,
 "between A. B., of _____, &c., of the one part, and C. D.,
 "of _____, &c., of the other part, witnesseth: That, for and
 "in consideration of the sum of _____, current money
 "of the Province of Lower Canada, to the said A. B. in hand paid by the
 "said C. D., at or before the execution of these presents, (the receipt
 "whereof is hereby acknowledged by the said A. B.,) he, the said A. B.,
 "hath granted, bargained, sold and confirmed, and by these presents doth
 "grant, bargain, sell and confirm unto the said C. D., his heirs and assigns
 "for ever, all that certain lot of land, &c., (*Insert here a description of*
 "*the property sold:*)—To have and to hold the said lot of land and premises
 "hereinbefore granted, bargained and sold, or intended so to be, with their
 "and every of their appurtenances, unto, and to the use of the said C. D.,
 "his heirs and assigns for ever. In witness, &c.

"A. B. (L S.)

"C. D. (L S.)

"Signed, sealed and delivered in the presence of

"E. F.

"G. H."

SCHEDULE NUMBER FOUR—REFERRED TO IN THE FOREGOING ORDINANCE.

Forms of memorials and certificates of discharge.

ONE—MEMORIAL OF A DEED OF BARGAIN AND SALE EXECUTED BEFORE WITNESSES.

"A memorial to be registered of a deed of bargain and sale, bearing date *See Tables*
 "the _____ day of _____, in the year of Our Lord
 "_____, made between A. B., of _____,
 "in the district of _____, esquire, of the one part, and C. D.
 "of _____, &c., of the other part, (*a full description of the*
 "*parties to be inserted, as in the deed,*) by which said deed of bargain
 "and sale, the said A. B., for the considerations therein expressed, did
 "grant, bargain, sell and confirm unto the said C. D., his heirs and
 "assigns, all that, &c., (*Insert a description of the property sold:*) to
 "hold to the said C. D., his heirs and assigns for ever: Which said deed
 "of bargain and sale, now to be registered, is witnessed, &c., (*Specify*
 "*here the names of the witnesses to the execution of the deed;*) and the
 "said deed is required to be so registered by the said C. D.: as witness,
 "his hand, this _____ day of _____, &c.

"C. D.

"Signed in the presence of

"J. K.

"L. M."

TWO—MEMORIAL OF A DEED OF BARGAIN AND SALE, BY WAY OF MORTGAGE, BEFORE WITNESSES.

"A memorial to be registered of a deed of bargain and sale, bearing date *See Tables*
 "the _____ day of _____ in the year of Our Lord

“ made between A. B. of, &c., of the one part, and C. D. of, &c., of the
 “ other part, by which said deed of bargain and sale, the said A. B., did
 “ grant, bargain, sell, and confirm unto the said C. D., his heirs and assigns,
 “ all that, &c., (*Here insert a description of the mortgaged premises*;)
 “ To hold to the said C. D., his heirs and assigns for ever; subject, never-
 “ theless, to redemption, upon payment to the said C. D., his heirs, executors,
 “ curators, administrators, or assigns, of the sum of pounds, and
 “ lawful interest, as in the said deed of bargain and sale, now to be regis-
 “ tered, is expressed; which said deed of bargain and sale is witnessed,—
 “ as to the execution thereof, by the said A. B., by J. D., of, &c., and E.
 “ G. of, &c.—and as to the execution thereof by the said C. D., by, &c.:
 “ And the same deed is hereby required to be registered by the said C. D.:
 “ as witness his hand, this day of, &c.

“ C. D.

“ Signed in the presence of

“ E. F.

“ G. H.”

THREE—MEMORIAL OF AN ONEROUS DEED OF GIFT, INTER VIVOS.

See Tables.

“ A memorial to be registered of a notarial copy of a deed of gift *inter*
 “ *vivos*, bearing date at day of in the year of
 “ Our Lord made between A. B. of &c., and C. D., his wife, by
 “ him in this behalf duly authorized, of the one part, and E. F. of, &c., of
 “ the other part, (*A full description of the parties to be inserted, as in the*
 “ *deed*;) before G. H., public notary and witnesses, (*or, before J. K., and*
 “ *another, public notaries, as the case may be,*) by which said deed or gift,
 “ the said A. B. and C. D., his wife, did give, grant and confirm unto the
 “ said E. F., his heirs and assigns, all that, &c., (*Insert a description of*
 “ *the property conveyed by the deed of gift*;) to hold to the said E. F.,
 “ his heirs and assigns for ever; subject, nevertheless to a certain life-rent,
 “ consisting of, &c., (*Here insert the particulars of which the life-rent is*
 “ *composed*;) which said life-rent is payable by the said E. F., to the said
 “ A. B. and C. D., his wife, each and every year during the term of their
 “ natural lives, as in the said deed of gift *inter vivos*, now to be register-
 “ ed, is expressed: And the said deed of gift is hereby required to be
 “ registered by the said E. F.: as witness his hand, this
 “ day of &c.

“ E. F.

“ Signed in the presence of

“ L. M.

“ N. P.”

FOUR—MEMORIAL OF A WILL, OR OF A PROBATE, OR AN OFFICE COPY, OR A NOTARIAL COPY THEREOF.

See Tables.

“ A memorial to be registered of the probate (*or, the original will, or*
 “ *an office or notarial copy, as the case may be,*) of the last will and testa-
 “ ment of G. H., late of in the county of in the
 “ district of bearing date, &c., by which will the said testator
 “ did give and devise unto, &c. (*as in the will,*) to hold, &c.,; which
 “ said will was executed by the said testator, in the presence of A. B. of,
 “ &c., C. D. of, &c., and E. F. of &c.: And the probate of the said will,
 “ (*or, the original, or an office or notarial copy, as the case may be,*) is

"hereby required to be registered by O. P., one of the devisees therein
 "named : as witness his hand, this day of

" O. P.

" Signed in the presence of

" R. S.

" T. V."

FIVE—MEMORIAL OF A NOTARIAL OBLIGATION.

" A memorial to be registered of a notarial copy of a notarial obligation, *See Tables.*
 " (or of the original, *if it be the original,*) bearing date the
 " day of , in the year of Our Lord , made
 " and entered into by A. B. of , &c., before E. F., public
 " notary, and witnesses, (or before G. H. and another, public notaries,
 " *if the case be so,*) whereby the said A. B. owned himself to be indebted
 " to C. D. of , &c., in the sum of pounds,
 " to be paid, &c.,—and for securing the payment of the said sum of money
 " and interest, hypothecated all that, &c., (*Insert the description of the*
 " *hypothecated premises, as contained in the notarial obligation :*) Which
 " said notarial copy of the said notarial obligation is hereby required to be
 " registered by the said C. D. : as witness his hand, this
 " day of , &c.

" C. D.

" Signed in the presence of

" J. K.

" L. M."

SIX—MEMORIAL OF THE APPOINTMENT OF A TUTOR OR GUARDIAN TO MINORS, FOR THE PRESERVATION OF THE LEGAL OR TACIT HYPOTHEC RESULTING FROM SUCH APPOINTMENT.

" A memorial to be registered of the appointment of A. B. of, &c.,
 " (*Insert the place of abode and addition of the tutor ;*) to be tutor or
 " guardian to C. D., E. F., &c., minors under the age of twenty-one
 " years, issue of the marriage of the late G. H., (*the name of the father,*)
 " deceased, with the late J. K., (*the name of the mother,*) also deceased,
 " which appointment was made by and under the authority of L. M.,
 " (*Insert the name and description of the judge by whom the appoint-*
 " *ment has been made ;*) at, &c., (*the place where the appointment was*
 " *made,*) on the day of , in the year of Our
 " Lord : And the said appointment is hereby required
 " to be registered, for the preservation of the legal or tacit hypothec re-
 " sulting therefrom, on all the real or immoveable estates of the said A. B.,
 " situate in the district of (*the name of the district within which the re-*
 " *gistration is to be made,*) by N. O., of, &c., (*Insert the name and*
 " *description of the person requiring the registration :*) as witness his
 " hand, this day of , &c.

" N. O.

" Signed in the presence of

" O. P.

" R. S."

SEVEN—MEMORIAL OF A JUDGMENT.

" A memorial to be registered of a judgment in Her Majesty's court of
 " common pleas, in the division thereof, being the division held
 " in the territorial division of , of the term of ,

" in the year of Our Lord , between A. B. of ,
 "&c., plaintiff, and C. D. of , &c., defendant, in a plea of
 " debt for pounds, with interest from, &c., and costs taxed
 " at pounds ; Which said judgment was rendered on the
 " day of the said month of , and is hereby
 " required to be registered by the said A. B. : as witness his hand, this
 " day of , &c.

" A. B.

" Signed in the presence of

" J. F.

" T. P."

**EIGHT—CERTIFICATE OF DISCHARGE FROM A JUDGMENT WHEREOF A
 MEMORIAL HAS BEEN REGISTERED.**

" To the registrar of the district of
 " I, A. B. of, &c., do hereby certify that C. D. of, &c., hath paid and
 " satisfied to me all such sum and sums of money as was, or were due and
 " owing upon a judgment recovered in Her Majesty's court of common
 " pleas, in the division thereof, being the division held in the
 " territorial division of of the term of in the year
 " of Our Lord by me the said A. B., against the said C. D.,
 " for pounds, debt, and pounds, costs, a memorial
 " whereof was registered on the day of in the year
 " of Our Lord in the register B. number ; And I do
 " hereby require an entry of such payment and satisfaction to be made, in
 " the register wherein the same is registered, pursuant to the ordinance or
 " law in such case provided : as witness my hand, this day
 " of in the year of Our Lord, &c.

" A. B.

" Signed, and satisfaction acknowledged, in the presence of

" J. K. of , &c.

" L. M. of , &c."

NINE—A CERTIFICATE TO DISCHARGE A MORTGAGE.

" To the registrar of the district of

See Tables.

" I, A. B. of, &c., (*the mortgagee in the deed or his heirs, execu-*
 " *tors, curators or administrators,*) do hereby certify that C. D. of, &c.,
 " hath paid and satisfied all such sum and sums of money, as was or were
 " due and owing upon an indenture or mortgage, bearing date the
 " day of in the year of Our Lord
 " made between the said C. D., of the one part, and me the said A. B., of
 " the other part ; a memorial whereof was registered on the
 " day of in the year of Our Lord in register B.,
 " number ; And I do hereby require an entry of such payment
 " and satisfaction to be made in the register wherein the same is registered,
 " pursuant to the ordinance or law in such case provided : as witness my
 " hand, this day of in the year of Our
 " Lord

" A. B.

" Signed, and satisfaction acknowledged, in the presence of

" O. P. of, &c.

" R. S. of, &c."

TEX—A CERTIFICATE TO DISCHARGE A NOTARIAL OBLIGATION, AND EXTINGUISH THE HYPOTHEC THEREBY CONSTITUTED.

"To the registrar of the district of

"I, A. B. of, &c., (*the hypothecary obligee or creditor, his heirs, See Tables.*

"*executors, curators, or administrators,*) do hereby certify that C. D.

"of, &c., hath paid and satisfied all such sum and sums of money as was

"or were due and owing upon a notarial obligation, bearing date the

" day of in the year of Our Lord

" made and entered into by the said C. D., to me

"and in my favor, as the obligee therein named, before E. F., public

"notary and witnesses, (*or before E. F. and another, public notaries,*

"*as the case may be,*) whereof a memorial was registered on the

" day of in the year of Our Lord in

"register B. number ; And I do hereby require an entry of such

"payment and satisfaction, to be made in the register wherein the same is

"registered, pursuant to the ordinance or law in such case provided: as

"witness my hand, this day of in the

"year of Our Lord

" G. B.

"Signed, and satisfaction acknowledged, in the presence of

" J. K. of, &c.

" L. M. of, &c. "

Acts repealed, but the effect of registration or non-registration under which continues. See Sect. 53, of the foregoing ordinance.

An Act to establish Registry Offices in the Counties of Drummond, Sherbrooke, Stanstead, Shefford and Missiskoui. 10 & 11 Geo. IV. Cap. 8.
(*But repealed as aforesaid. See Tables.*)

MOST GRACIOUS SOVEREIGN,

WHEREAS it is expedient to establish within certain counties of Preamble.

this Province, offices for the enregistration of all deeds, concerning

immoveable property situate within such counties:—May it therefore please

your Majesty that it may be enacted, and be it enacted, &c., that from and

after the passing of this act, there shall be established in each of the coun-

ties of Drummond, Sherbrooke, Stanstead, Shefford and Missiskoui, an

office for the enregistration of all acts or deeds in law and instruments in

writing, by which immoveable property shall or may be transferred, disposed

of or incumbered in any way, whether the same be by bargain and sale,

enfeoffment, gift, mortgage, *hypothèque*, exchange, devise or marriage con-

tract; and that it shall be lawful for the Governor, Lieutenant-Governor or

person administering the government of this Province, to name the place

in each county where such register office shall be kept, and to nominate

and appoint a person of sufficient integrity and ability, to each and every

office that shall or may be established, and as often as occasion may require,

under the condition hereinafter mentioned, who shall faithfully cause to be

enregistered all deeds and instruments in writing by which immoveable

property held in free and common socage, or otherwise, within the counties

aforesaid, may be transferred, alienated or affected, that shall be presented

to him, in the order in which they may be presented to him, in manner

hereinafter mentioned.

Offices for the enregistration of all deeds in law established in the counties of Drummond, Sherbrooke, Stanstead, Shefford and Missiskoui; and places where the registers offices are to be kept. Registrar.

See Tables.

No act, &c., by which a *hypothèque* is created to be valid unless enregistered within a certain time.
See Tables.

II. And be it further enacted, &c., that from and after the passing of this act, no act or deed in law or instrument in writing, by which a mortgage or *hypothèque* has been or is created, shall bind or affect as a mortgage, incumbrance or *hypothèque*, any immoveable property situate within the counties aforesaid, unless such act or deed in law, or instrument in writing, be duly enregistered, in the manner hereinafter directed, within twelve months next after the passing of this act.

All acts, &c., conveying property to be enregistered.
See Tables.

III. And be it further enacted, &c., that all acts or deeds in law or instruments in writing, which may convey, alienate, bind or affect any immoveable property held in free and common soccage, or otherwise, within the counties aforesaid, made and executed from and after the passing of this act, shall be duly enregistered in the manner hereinafter directed; and that no such act or deed in law, or instrument in writing, shall be binding, or have any force or effect as a transfer, conveyance, mortgage, *hypothèque* or incumbrance, until the same shall have been so duly enregistered.

Last wills or testaments not to bind any immoveable property unless such bequest or devise is registered.

IV. And be it further enacted, &c., that when any immoveable property shall or may have been devised or bequeathed by last will or testament, the said last will or testament shall not bind or affect such immoveable property, unless that part of the said last will or testament which contains the devise or bequest of such immoveable property, be enregistered at full length in the said office of registration, within one year from the decease of the testator or deviser, together with the name of the testator or deviser, the names of the witnesses to the said will, the time and place at which the said will shall have been executed, and the day and hour at which the same shall have been deposited at the said office; and if the said last will and testament shall have been made and executed before two notaries, or one notary and two witnesses, in conformity to the laws and usages heretofore existing in this Province, then and in such case the name of the notaries, or notary and witnesses, shall be recorded in the said book of enregistration.

Rights of absent persons saved for a certain time.

V. Provided always, and be it further enacted, &c., that nothing in the foregoing section contained, shall extend or be construed to extend to prejudice in any way persons absent from the Province, concerned or interested in any last will or testament, which may bind or affect any immoveable property situated in any of the said counties, who shall be entitled to have such last will or testament enregistered as aforesaid, within five years from the decease of such testator or deviser.

Not to prejudice the rights of minors, &c.

VI. Provided further and be it enacted, &c., that nothing in this act contained shall extend or be construed to extend to prejudice the rights of minors, or persons incapable of exercising their rights, who shall, nevertheless, be bound and obliged within one year from and after the time at which such minors or persons shall have attained the age of majority, or shall have become capable of exercising their rights, to enregister such last wills and testaments, in the manner directed by this act in like cases, which enregistration shall have full force and effect.

Contract of marriage not to bind property unless enregistered.

VII. And be it further enacted, &c., that where any immoveable property, held in free and common soccage within any of the aforesaid counties, shall be specially charged by any contract of marriage, the clause or clauses of such contract of marriage so specially charging any such immoveable property therein described shall be enregistered in the book of registry aforesaid; and no contract of marriage, creating, or intended to create a

charge upon any such immoveable property, shall bind or affect the same in any way, unless the immoveable property so intended to be charged, be therein especially mentioned, set forth and described; any law, usage, or custom to the contrary in any wise notwithstanding.

VIII. Omitted.—It related only to the oath of office to be taken by the registrar, and the security (£2,000) to be given by him.

IX. Omitted.—It provided that the sureties should possess real property to the amount they were bound for; and released them if no misbehaviour appeared within three years after the registrar ceased to hold his office.

X. And be it further enacted, &c., that each of the registrars so appointed, shall provide a bound book of blank strong paper, and from time to time as may be needful, other such books, marking the first number one, and so on, in numerical order, fit and proper for enregistering in manner and form as hereinafter directed, all acts or deeds in law, or instruments in writing, intending to convey, alienate, or incumber in any way, any immoveable property situate and being within the county, wherein the said registrar shall faithfully enregister or cause to be enregistered in the manner by this act directed, and in the order and sequence in which the same shall come to his hands, numbering each act, deed, or instrument in writing in that order, and not in the order of dates, every such act, deed or instrument in writing, for the purpose of conveying, alienating, or incumbering of any such immoveable property; and upon every act, deed, or instrument in writing so produced to him, the said registrar, he shall respectively indorse the number thereof, and sign a certificate thereon, mentioning the year, the day of the month, and hour of the day, on which such act, deed or instrument in writing was by him received, and expressing also in what book or volume, and on what page or pages thereof the same is enregistered, which said act, deed or instrument in writing, will, or contract of marriage, shall then be returned to the person from whom it was received; and all certificates from such registrars shall be taken and allowed in all courts of this Province, as evidence of such respective registration; and there shall be entered on the margin of the registry book, over against the registry of each act, deed, or instrument in writing, the number thereof, and the year, the day of the month and hour of the day, when the same came to the hands of the registrar; and every registrar shall keep an alphabetical index, for each book or volume, of the names of all vendors and purchasers of any immoveable property, and of all other parties to any act, deed or instrument in writing, operating or intending to convey or incumber in any way any immoveable property; and the entry of every such act, deed or instrument in writing upon the registry book, shall be signed by the registrar or his clerk or deputy, with his full signature, and every entry on the margin thereof, with the initials of his name, or of his deputy or clerk.

Each registrar to provide himself with a bound book for the enregistration of all deeds, &c.

Registrar's certificate to be evidence for certain purposes, &c.

XI. And be it further enacted, &c., that every registrar for each of the aforesaid counties shall keep duplicate copies of all such books and alphabetical indexes as are directed to be kept for each of the counties aforesaid, by this act, which every such registrar, or his deputy or clerk shall, on or before the thirty-first day of December of each and every year, convey or cause to be conveyed to the office of the provincial secretary, for such purposes as to justice may appertain.

Registrar to keep duplicate registers.
See Tables.

XII. Omitted.—It empowered the registrar to appoint a deputy to act for him, and in case of his death until another should be appointed.

XIII. *Omitted.—It fixed the hours of office and the fees of the registrar.*

Penalty on a registrar or his deputy or clerk for neglect of duty.

XIV. And be it further enacted, &c., that if any such registrar, or his deputy or clerk, shall neglect to perform his duty in the execution of the duties of the said office, according to the rules and directions in this act mentioned, or shall commit or suffer to be committed any undue or fraudulent practice in the execution of the duties of the said office, and be thereof lawfully convicted, then such registrar shall forfeit his said office, and pay treble damages, with full costs of suit, to every person or persons that may or shall be injured thereby, to be recovered from the said registrar or his deputy or clerk, jointly or severally, *solidairement*, by action in any court of competent jurisdiction in this Province.

When any money due shall have been paid off, registrar to make an entry of such discharge.

XV. And be it further enacted, &c., that whenever any act, deed or instrument in writing, by which money is or shall appear to be due, or which may bind or affect any immoveable property, so as aforesaid enregistered, shall be paid off, redeemed or discharged, wholly or in part, the registrar of the county wherein the property is situate, shall, when thereunto required by any party interested, make an entry in the margin of the registry book, over against or opposite the original entry or registry of the act, deed, or instrument in writing, so affecting or binding such immoveable property, and which may have been so paid off, redeemed or discharged, of the said payment, redemption or discharge; for which said entry the registrar, his deputy or clerk, shall be entitled to demand and receive the sum of one shilling and three pence, currency, and no more.

XVI. *Omitted.—It provided that the death of a registrar should be notified to the Governor.*

Penalty on persons forging or counterfeiting any entry in the register.

XVII. And be it further enacted, &c., that if any person or persons shall at any time forge or counterfeit any act, deed or instrument in writing, or certificate hereinbefore mentioned, or make, or cause to be made any false entry in a register, and be thereof lawfully convicted, every such person or persons shall incur and be liable to such pains and penalties as in and by an act of the parliament of England, made in the fifth year of Queen Elizabeth, intituled, *An act against forgers of false deeds and writings*, are imposed upon persons for forging deeds, charters and writings.

XVIII. *Omitted.—It continued the act to 1st May, 1838.*

1 Will. IV. Cap. 3.

An Act to amend an Act passed in the eleventh year of the Reign of His late Majesty, intituled, *An Act to establish Registry Offices in the Counties of Drummond, Sherbrooke, Stanstead, Shefford and Missiskoui*, and to extend the provisions of the said Act. (*But repealed as aforesaid. See Tables.*)

Preamble.
A certain Section of 10 & 11 Geo. 4. Cap. 8, repealed.

WHEREAS it is expedient to amend a certain act, &c., (10 & 11 Geo. 4. cap. 8.) and to repeal a certain section of the said act:—Be it therefore enacted, &c., that the eleventh section of the said act, &c., (10 & 11 Geo. 4. cap. 8.) shall be and the same is hereby repealed.

Persons owning any land within the said counties, to enregister the

II. And be it further enacted, &c., that every person owning or claiming to own any landed or immoveable property whatsoever, situate within any of the said counties of Drummond, Sherbrooke, Stanstead, Shefford and Missiskoui, by virtue of any act or deed in law, or instrument in

writing, executed before the passing of the act herein cited and amended, except the letters patent of His Majesty, shall, before the first day of May, one thousand eight hundred and thirty two, enregister the same in the registry office of the county in which such land or immoveable property shall be situate; and every such legal instrument which shall not be so enregistered shall be utterly void and of no effect whatsoever against subsequent purchasers for a valuable consideration.

same before the first of May, 1832.

See Tables.

III. And be it further enacted, &c., that all the provisions of the act herein before cited and amended, shall extend to all such lands and other immoveable property as are or shall be hereafter held in free and common socage in the counties of Ottawa, Beauharnois and Megantic.

The said act extended to other counties.

IV. And be it further enacted, &c., that from and after the passing of this act, no act or deed in law, or instrument in writing, by which a mortgage or *hypothèque* has been or is created, shall bind or affect as a mortgage, incumbrance or *hypothèque*, nor shall any act, deed or instrument in law, operate or bind as a conveyance, any land or immoveable property situate within any of the said counties of Ottawa, Beauharnois and Megantic, save and except all such land or immoveable property as is or may be held *à titre de fief* within the same, unless the said act, deed or instrument in law, be enregistered in the registry office for the county in which the said land or immoveable property is situate, within one year from and after the passing of this act.

No act, &c., to be valid in the counties of Ottawa, Beauharnois and Megantic, unless enregistered.

V. Omitted.—It continued the act to 1st May, 1838.

An Act to extend the period limited by an Act passed in the 2 Will. IV.

first year of His Majesty's reign, chapter the third, for enregistering certain acts or deeds in law, or instruments in writing, therein mentioned.

Cap. 7.

But see Tables.

WHEREAS it is expedient to extend the period assigned and limited by the second clause or section of an act, &c., (1 Will. 4. cap. 3.)

for enregistering certain acts or deeds in law, or instruments in writing, mentioned in the said clause or section:—Be it therefore enacted, &c., that the period assigned and limited by the said second clause or section of the before mentioned act passed in the first year of His Majesty's reign, chapter the third, for enregistering certain acts or deeds in law, or instruments in writing, in the said clause or section mentioned, shall further be and the same is hereby extended to the first day of May, which will be in the year of Our Lord one thousand eight hundred and thirty-three; and that all such acts or deeds in law or instruments in writing, in the said clause or section mentioned and required to be enregistered, which shall not be enregistered in the manner therein provided before the said first day of May, in the year of Our Lord, one thousand eight hundred and thirty-three, shall be utterly void and of no effect whatsoever, against subsequent purchasers for a valuable consideration.

Preamble.

Period limited by the 2nd section of 1 Will. 4. cap. 3, extended to 1833.

An Act to extend the provisions of the Act to establish Registry

Offices in the Counties of Drummond, Sherbrooke, Stanstead, Shefford and Missiskoui, to lands held in free and common socage in the Counties of the Two Mountains and Acadie.

4 Will. IV. Cap. 5.

But repealed as aforesaid.

See Tables.

WHEREAS it is expedient to extend the provisions of the act hereinafter mentioned to the counties of the Two Mountains and Aca-

Preamble.

Provisions of 10 & 11 Geo. 4. cap. 8, extended to lands in free and common soccage in the counties of Two Mountains and Acadie.

Persons owning lands to enregister them.

die, and to provide for the enregistration of all instruments in writing in any way affecting lands held in free and common soccage in the said counties :—Be it therefore enacted, &c., that all the provisions now in force of a certain act, &c., (10 & 11 Geo. 4. cap. 8,) shall extend and they are hereby extended to all such lands and other immoveable property as now are or shall hereafter be held in free and common soccage in the said county of the Two Mountains, or in the said county of Acadie.

II. And be it further enacted, &c., that every person owning or claiming to own any landed or immoveable property whatsoever, held in free and common soccage, and lying within either of the said counties of the Two Mountains and Acadie, by virtue of any act or deed in law, or instrument in writing, executed before the passing of this act, except the letters patent of His Majesty, shall, before the first day of May, one thousand eight hundred and thirty-six, enregister the same in the registry office of that one of the said two counties in which such land or immoveable property shall be situate; and every such legal instrument which shall not be so enregistered shall be utterly void and of no effect whatsoever against any subsequent purchaser for a valuable consideration; and no act or deed in law or instrument in writing, made before the passing of this act, by which a mortgage or hypothec has been created, shall bind or affect as a mortgage, incumbrance or hypothec, any land or immoveable property held in free and common soccage within either of the said counties, unless such act, deed in law, or instrument in writing be duly enregistered in the registry office of that one of the said counties in which such land or immoveable property is situate, on or before the first day of May, one thousand eight hundred and thirty-five, aforesaid.

III. Omitted.—It continued the act until the expiration of 10 & 11 Geo. 4. cap. 8.

5. GASPÉ, TITLES TO PROPERTY IN.

4 Geo. IV.
Cap. 15.

An Act to render valid certain Acts, Agreements in writing, and Contracts of Marriage, (*Contrats de Mariage*) *sous seing privé*, heretofore executed in the Inferior District of Gaspé, and to provide for the want of Notaries in the said Inferior District.

Preamble.

See Tables.

Persons having executed any will, &c., before the passing of this act, intending to affect their property, may make oath to that effect, and cause the same to be entered

WHEREAS it is expedient to render valid certain informal acts or agreements in writing, and contracts of marriage, (*contrats de mariage*) *sous seing privé*, heretofore made and executed in the inferior district of Gaspé, (in which no public notaries have hitherto resided,) and by the parties, *bonâ fide*, intended to be binding and to affect their property and estate, real and personal :—Be it therefore enacted, &c., that from and after the passing of this act, it shall be lawful for any person being a party, or representing by inheritance, succession or otherwise, any party, to any will, act or agreement in writing, of any nature or kind, inventory, *partage*, donation, or contract of marriage (*contrat de mariage*) *sous seing privé*, made and executed, *bonâ fide*, before the passing of this act, in the inferior district of Gaspé, and by which it may have been intended by the parties having signed the same, or having made their mark thereto, to bind and affect their property and estate real, at the time of the making thereof,

on making oath to that effect, before the provincial judge for the said inferior district of Gaspé, upon petition to him presented to that effect, to cause the same to be entered at full length, and recorded in a book or register to be kept for the purpose by the prothonotary of the provincial court for the said inferior district of Gaspé, among the records of his office, and which book shall be duly marked (*paraphé*) throughout on every leaf, with the initials of the christian and surname of the provincial judge of the said inferior district of Gaspé.

in a register to be kept for that purpose.

See Tables.

II. And be it further enacted, &c., that a certified copy from such book or register, under the hands of the prothonotary of the said provincial court, of the entry and record which shall be made in pursuance of this act, of each and every such will, act or agreement in writing, inventory, *partage*, donation, or contract of marriage, (*contrat de mariage*) *sous seing privé*, shall to all intents and purposes avail and be of the same force and effect, in every court of law in this Province, as if the same were an authentic copy of any instrument to the like effect, executed before a notary.

Effect of a certified copy from such register.

See Tables.

III. Provided always, and be it further enacted, &c., that before any such will, act, or agreement in writing, inventory, *partage*, donation, or contract of marriage, (*contrat de mariage*) *sous seing privé*, shall be entered and recorded as hereinabove mentioned, it shall be lawful for the provincial judge of the aforesaid inferior district, if he shall so think it expedient or necessary, to require the attendance of the several parties to the same, or in case that the parties, or any of them, having executed the same are dead, of such witnesses as were present at the time of signing or executing the same, or in default of witnesses, or in case of their death or absence, of such persons not being witnesses who may have had a knowledge of the facts and circumstances in question, and them severally to examine on oath; and if, on full enquiry, it shall appear to such provincial judge, that the will, act, or agreement in writing, inventory, *partage*, donation, or contract of marriage, (*contrat de mariage*) *sous seing privé* produced, was by the parties thereto *bonâ fide* made and executed at the time when the same may purport to have been made and executed, such provincial judge shall authorize and order the same to be entered and recorded as hereinabove mentioned; but if, on the contrary, he shall have cause to believe that the same was not *bonâ fide* made and executed at the time when it may purport to have been made and executed, or that the same was made collusively, or for any illegal purpose whatever, then and in such case it shall be the duty of such provincial judge to reject and to return the same to the party producing it, without entering or recording the same.

Certain formalities to be observed before any will, &c. is recorded.

See Tables.

IV. Provided always, and be it further enacted, &c., that whenever such will, act, or agreement in writing, inventory, *partage*, donation, contract of marriage, (*contrat de mariage*) *sous seing privé*, shall have been rejected and returned by the said provincial judge, in the manner herein last mentioned and provided, the party producing the same shall and may have an appeal from the judgment or decision of the said provincial judge in that behalf, to the court of King's bench for the district of Quebec, which court shall have power to examine and revise such judgment or decision, and to affirm or reverse the same: Provided further, that no such appeal shall lie nor be granted, unless the same be notified and applied for to the said provincial judge, within ten days after such judgment or decision shall have been made or rendered.

Appeal allowed in certain cases.

See Tables.

Proviso.

On an appeal from a judgment, by which any will, &c., has been rejected or refused to be recorded, the provincial judge to cause the proceedings before him to be reduced to writing, and be transmitted to the court of King's bench at Quebec.

V. And be it further enacted, &c., that when and as often as any person or persons shall declare his or their intention to appeal from any such judgment or decision of the said provincial judge, by which any such will, act or agreement in writing, inventory, *partage*, donation or contract of marriage, (*contrat de mariage*) *sous seing privé*, shall have been rejected or refused to be entered and recorded as aforesaid, the said provincial judge shall cause to be reduced to writing the proceedings had before him, and all the testimony and evidence offered or adduced respecting such will, act or agreement in writing, inventory, *partage*, donation or contract of marriage, (*contrat de mariage*) *sous seing privé*, which shall have been so rejected or refused to be entered and recorded as aforesaid; and a certified copy of the said proceedings, testimony and evidence, together with the petition of the party or parties who shall have presented such will, act or agreement in writing, inventory, *partage*, donation, contract of marriage, (*contrat de mariage*) *sous seing privé*, and a statement of the reasons of the judgment or order by which the said provincial judge shall have rejected or refused to enter and record the same, shall, at the instance and request of the party or parties appealing or declaring his or their intention to appeal, be immediately transmitted by the said provincial judge to the court of King's bench at Quebec.

If the judgment be reversed, the court to make an order that the will, &c., be recorded; and the proceedings to be remitted to the provincial judge.

VI. And be it further enacted, &c., that if upon any such appeal made as aforesaid, the judgment or order by which such will, act or agreement, inventory, *partage*, donation or contract of marriage, (*contrat de mariage*) *sous seing privé*, shall have been rejected or refused by the said provincial judge, shall be reversed by the said court of King's bench, the said court by whom such appeal shall have been determined, shall make an order that the said will, act or agreement, inventory, *partage*, donation, contract of marriage, (*contrat de mariage*) *sous seing privé*, shall be entered and recorded in the manner herein first before-mentioned, and shall cause the said order, together with the said will, act or agreement, inventory, *partage*, donation, contract of marriage, (*contrat de mariage*) *sous seing privé*, and with all the proceedings, evidence and testimony relating thereto, to be remitted to the said provincial judge of the said inferior district, who shall cause the said will, act or agreement in writing, inventory, *partage*, donation, contract of marriage, (*contrat de mariage*) *sous seing privé*, to be entered and recorded accordingly.

Certain fees allowed to prothonotary.

VII. And be it further enacted, &c., that the prothonotary, for enrolling every such will, act or agreement in writing, inventory, *partage*, donation, contract of marriage, (*contrat de mariage*) *sous seing privé*, if the same do not exceed one hundred words, shall be entitled to demand and receive the sum of two shillings and six pence, currency,—and for every hundred words exceeding one hundred, at the rate of six pence, currency,—and for every certified copy of any entry from such book or register, at the rate of one shilling, currency, for the first hundred words, and six-pence, currency, for every hundred words exceeding the first hundred words.

See Tables.

Nothing in this act to render valid any act or contract vitiated by fraud, &c.
False oath to be perjury.

VIII. Provided always, and be it further enacted, &c., that nothing in this act contained, shall be construed to render legal or valid any act or contract *sous seing privé* which may be found to be false or fraudulent, or which may be contrary to good morals, or in any wise prohibited by law.

IX. Provided always, and be it further enacted, &c., that any person who being sworn under this act, shall falsely make oath or swear, shall, on

being thereof lawfully convicted, incur and suffer the pains and penalties of wilful and corrupt perjury ; and provided also, that nothing in this act contained, shall in any wise prejudice the rights of any person purporting to be a party or concerned in any such act, or agreement in writing, *sous seing privé*, who may not have appeared and admitted or affirmed the same before the provincial judge, at the time when the same may have been attested, nor to prevent such person from taking his legal recourse against such act or agreement in writing, *sous seing privé*, enrolled as above mentioned, by an *inscription en faux*, or otherwise according to law.

Saving of the rights of persons who may not have appeared when the act was attested.

X. And be it further enacted, &c., that during three years from and after the passing of this act, any will, act or agreement in writing, inventory, *partage*, donation, or contract of marriage, (*contrat de mariage*), that shall be executed before any justice of the peace, or minister, or *curé*, or missionary, and two subscribing witnesses, or before the prothonotary of the provincial court of the said inferior district and two subscribing witnesses, shall bear mortgage (*portera hypothèque*) from the day of its execution, and shall, as well as the copies thereof duly certified, be taken and received as valid and authentic in all His Majesty's courts of law in this Province, as if the same had been executed before notaries : Provided always, that the originals or minutes of all such acts as aforesaid, shall, by the justice of the peace, minister, *curé*, or missionary having executed the same, be, at the end of every year during the period aforesaid, or oftener if necessary, in case of the death or removal from the said inferior district of the person before whom the same may have been executed, transmitted to the prothonotary of the said provincial court, to be by him carefully preserved among the records and remembrances of his office, for such legal purposes as the same may serve pursuant to this act.

Any deed, &c. executed before a justice of the peace or minister, &c. and two witnesses, to bear mortgage, &c. in certain cases.

Providio.

XI. And be it further enacted, &c., that this act shall be deemed a public act, and shall be judicially taken notice of as such by all judges, justices of the peace, and all other persons whomsoever, without being specially pleaded.

Public act.

An Ordinance to provide permanently for the want of Notaries in the Inferior District of Gaspé, and to remove doubts therein mentioned.

3 & 4 Vict. Cap. 5.

WHEREAS, in and by the tenth section of a certain act, &c., (4 Geo. 4. cap. 15,) it is enacted that certain deeds and acts and legal instruments and documents in writing therein specified, shall, if executed in the said inferior district, within the period and in the manner provided by the said section, and if all the provisions and requirements thereof be complied with in regard to the same, have the same effect in certain respects therein mentioned as if the same had been executed before notaries : And whereas the period so fixed by the said act was intended to be extended by divers other acts until the first day of May, one thousand eight hundred and thirty-five, when it expired, and was afterwards again intended to be renewed and extended by the act passed in the sixth year of the reign of His late Majesty, intituled, *An act further to provide, during a limited time, for the want of notaries in the inferior district of Gaspé*, from the day of the passing of the said act, until the first day of May, one thousand eight hundred and forty, but it was in effect provided in and by the said last mentioned act, that the extension of the period in the said section mentioned, should cease whenever there should be notaries public resident and practising at

Preamble.

Effect of certain instruments executed previous to 1st May, 1840, in the manner prescribed by 4 Geo. 4, cap. 15, sect. 10, declared.

Carlton, New Richmond, and New Carlisle, in the county of Bonaventure, and at Percé and *la Grande Grève* or Gaspé Basin, in the county of Gaspé ; And whereas doubts have arisen and may arise as to the true intent and meaning of the provision last above cited, and as to the legal construction of the terms used in the acts whereby the said period was intended to be extended as aforesaid ; And whereas divers deeds, acts and legal instruments and documents in writing may have been executed in the manner by the said section provided, between the first day of May, one thousand eight hundred and thirty-five, and the passing of the act herein last above cited, to which it is desirable to give effect, as if the same had been so executed during the period in the said section mentioned :—Therefore, and to remove all such doubts as aforesaid, and to make permanent provision for the want of notaries in the said inferior district, be it therefore ordained and enacted, &c., that any will, act or agreement in writing, inventory, *partage*, donation, or contract of marriage, *contrat de mariage*, which may or shall have been executed within the said inferior district of Gaspé, between the time of the passing of the provincial act herein first above cited, and the first day of May, one thousand eight hundred and forty, in the manner prescribed by the tenth section of the act last mentioned, and with regard to which all the requirements of the said section may or shall have been complied with, has borne and shall bear hypothec, and has had and shall have the same legal effect according to its tenor, as if it had been executed before notaries, and shall, as well as the copies thereof duly certified, be taken and received as valid and authentic in all Her Majesty's courts of law in this Province, as if executed before notaries ; any law, statute or usage to the contrary notwithstanding.

And of those executed subsequently to 1st May, 1840.

II. And be it further ordained and enacted, that any will, act or agreement in writing, inventory, *partage*, donation, or contract of marriage, executed within the said inferior district of Gaspé, after the said first day of May, one thousand eight hundred and forty, in the manner prescribed by the tenth section of the act last mentioned, and with regard to which all the requirements of the said section shall have been complied with, shall bear hypothec, and shall have the same legal effect, according to its tenor, as if it had been executed before notaries, and shall, as well as the copies thereof, duly certified, be taken and received as valid and authentic in all Her Majesty's courts of law in this Province as if executed before notaries : Provided always, that this section shall have no force or effect with regard to any will, act or agreement in writing, inventory, *partage*, donation or contract of marriage so executed, if there shall have been two notaries resident and practising in the county in which the same shall have been executed, at the time of the execution thereof and during two months before that time ; but the proof that there were two notaries so residing and practising shall, in all cases, lie upon the party disputing the validity of any such act or instrument as aforesaid, and if such proofs be not adduced, it shall be held and considered that there were not two notaries so resident and practising at the time such act or instrument was executed.

Proviso.

6 Will. IV.
Cap. 63.

An Act to make further provision for the security of Titles to Real Property in the Inferior District of Gaspé, and to repeal two Acts therein-mentioned.

Preamble.

WHEREAS doubts have arisen respecting the legal effect of the adjudications entered in the register kept by the registrar of commis-

tioners appointed by virtue of an act, &c., (59 Geo. 3. cap. 3) and of the officially certified copies of such entries: And whereas it would be of advantage to the inhabitants of the said district, that the said adjudications should be deposited of record in the office of the provincial court of the said district: And whereas it is also expedient to repeal the act above cited, and a certain other act passed for a like purpose in, &c., (1 Will. 4. cap. 23):—

Be it therefore enacted, &c., that the act passed in the fifty-ninth year of the reign of His Majesty King George the Third, chapter three, intituled, *An act to secure the inhabitants of the inferior district of Gaspé in the possession and enjoyment of their lands*, and the act passed in the first year of His present Majesty's reign, chapter twenty-three, intituled, *An act to make more effectual provision for the security of titles to real property in the inferior district of Gaspé*, shall be and they are hereby repealed.

II. And it is further declared and enacted, &c., that all adjudications entered in such registers, and officially certified copies thereof, made or certified under the authority of the said act, &c., (59 Geo. 3. cap. 3,) or under the authority of an act, &c., (1 Will. 4. cap. 23,) shall be deemed taken to be, and shall to all intents and purposes in law, have the effect of grants from His Majesty, of each and every tract, lot or parcel of land mentioned and set forth in the same, and of which possession shall have been taken or maintained by virtue of any entry in such register, and shall vest in the person and persons, respectively, holding, by virtue of such adjudication, the fee simple of such tract, lot or parcel of land, and shall accordingly be so held and considered by all judges and justices of any of His Majesty's courts in this Province.

III. And be it further enacted, &c., that a duplicate of the registers kept by the commissioners appointed under the authority of the act above cited, passed in the fifty-ninth year of the reign of His Majesty King George the Third, shall, immediately after the passing of this act, be deposited by the officer or person in whose possession the same shall be, at the office of the clerk of the provincial court of the said inferior district of Gaspé; and the said clerk shall deliver, duly certified, copies of all adjudications entered in the said registers, to any party interested therein who shall demand the same; and the copies so certified, and no others, shall be held and considered in all courts of law in which they shall be produced in evidence, as being authentic copies of such adjudications, according to the true intent and meaning of this act; and for each such copy the said clerk shall be entitled to demand and receive the sum of two shillings and six pence, currency, and no more.

IV. Provided always and be it further enacted, &c., that the original register kept by the said commissioners, which by the said last mentioned act was required to be deposited in the office of His Majesty's executive council of this Province, shall be and remain in the said office; and all and every person and persons shall and may, as often as they require, have access to the same and obtain copies or extracts therefrom, in the manner and on payment of the fees established and allowed therefor by the said act, to the clerk of the executive council; any thing in this act contained to the contrary notwithstanding.

V. And be it further enacted, &c., that this act shall be deemed and considered as a public act, and as such shall judicially be taken notice of by all judges, justices of the peace and others whom it may concern, without being specially pleaded.

Acts 59 Geo. 3. Cap. 3, and 1 Will. 4. Cap. 23, repealed.

Adjudications under act 59 Geo. 3. Cap. 3, or under act 1 Will. 4. Cap. 23, to have the effect of grants from His Majesty.

A duplicate of the registers to be deposited of record in the office of the clerk of the provincial court of Gaspé. See Tables.

The original register required to be deposited in the office of His Majesty's executive council.

Public act.

6. LETTERS PATENT FOR LANDS.

36 Geo. III. An Act for the safe custody and registering of all Letters Patent,
 Cap. 3. whereby any grant of the Waste or other Lands of the Crown,
 lying within this Province, shall hereafter be made.

Preamble.

Letters patent,
 &c., to be de-
 posited of re-
 cord in the se-
 cretary's office.

WHEREAS it will be expedient, that all letters patent under the great seal of this Province, whereby any grant of the waste or other lands of the Crown shall hereafter be made, should be deposited and remain of record in some public office, so that recourse may thereunto readily be had, as well by His Majesty's servants as by the grantees in the said letters patent named, and by all others concerned, when and so often as such recourse shall be necessary :—Be it therefore enacted, &c., that all letters patent which shall hereafter issue under the great seal of this Province, whereby any grant of the waste or other lands of the Crown, lying within this Province, shall be made, shall be held and deposited in the office of the secretary of this Province, there to remain for ever of public record for the purposes hereinafter contained ; and that the secretary of the Province for the time being shall, and he is hereby empowered, authorized and required to hold and safely to keep and retain such letters patent at all times in his custody against all and every person or persons whomsoever, except as is hereinafter excepted.

Letters patent
 to be enrolled
 in the office of
 the registrar.

III. And whereas such original letters patent may be destroyed by fire and other accidents :—Be it therefore enacted, &c., that all letters patent which shall hereafter issue under the great seal of this Province, whereby any grant of the waste or other lands of the Crown, lying within this Province, shall be made, shall be registered at full length in the office of the registrar of enrollments within six months from the day of the date thereof ; and it shall and may be lawful, and the secretary of the Province is hereby authorized and required, to deliver all such letters patent whereby any grant of the waste or other lands of the Crown shall hereafter be made, within twenty days from the date thereof, to the registrar of enrollments, to be by him registered and enrolled in manner hereinafter directed, and for that purpose also by him to be retained for the space of twenty days, and no more ; and the said registrar of enrollments is hereby empowered, authorized and required to register and enroll all such letters patent at full length, by engrossing them separately in one or more skins or rolls of parchment ; and the said registrar shall in the margin of every such registry and enrollment, insert the time of such registry and enrollment, and for such registry and enrollment shall be entitled to demand and receive of and from the grantees in such letters patent named, the sum of ten shillings for the registry and enrollment thereof, and no more ; and the said registrar shall indorse and sign a certificate of such registry and enrollment on such letters patent, and shall safely keep all and every the skins or rolls of parchment wherein such registries and enrollments shall be made in his said office, there to remain of public record ; and all copies of such registries and enrollments of such letters patent so registered and enrolled at full length, duly certified to be such, under the hand and signature of the registrar of enrollments for the time being, or his deputy lawfully appointed, and proved on oath to be a true copy, shall be allowed in all His Majesty's courts of law in this Province, in all cases where such letters patent shall have been destroyed by fire or other accident, to be good and sufficient evidence of such letters patent so registered and enrolled, and destroyed by fire or other acci-

Fees of regis-
 try.

See Tables.

dent, and of the contents thereof, and shall be of the same force and effect to all intents and constructions of law, as if the enrollment of the said letters patent were in such case produced and shewn forth : Provided always, that in case the duties of secretary and registrar shall be executed by one and the same person, that the said patents shall be preserved in one office, and that the enrollments thereof shall be preserved in a distinct and separate office not under the same roof. Proviso.

IV. And be it further enacted, &c., that the secretary of the Province and the registrar of enrollment, severally and respectively, shall furnish and deliver copies of all such letters patent and of all such registries and enrollments thereof, and such certificates under their hands and signatures concerning the same as are hereinbefore mentioned, to all and every person or persons who shall require the same ; and for all such copies shall be allowed the sum of ten shillings, and no more, for such copy, and shall be further allowed for every search in their several and respective offices, one shilling, and no more. Copies of letters patent or enrollment to be delivered. See Tables.

V. And be it further enacted, &c., that if any secretary of this Province or registrar of enrollments, shall neglect to perform his or their duty according to the rules and directions in this act contained, or commit or suffer to be committed any undue or fraudulent practice in the execution of his or their said duty, then such secretary or registrar of enrollments shall be liable to pay treble damages and full costs of suit, to any and every person or persons who shall be injured thereby, to be recovered with costs of suit, by plaintiff or action in any of His Majesty's courts of law within this Province, wherein either party shall and may obtain a trial by jury, by whose verdict the truth of the matter in issue, and the *quantum* of damages sustained by the plaintiff, shall be found and assessed. Penalty on the secretary or registrar for neglect of duty.

VI. And be it further enacted, &c., that if any person or persons shall at any time forge or counterfeit, or cause to be forged or counterfeited any such copy or copies of any such letters patent, or of any such registry or enrollment of such letters patent, or of any such certificate as is or are herein mentioned and directed, or shall publish as true or shew forth in evidence any such forged or counterfeited copy or copies of any such letters patent, or of any such registry or enrollment of such letters patent, or of any such certificate as is or are herein mentioned or directed, knowing the same to be forged and counterfeited, and shall be thereof convicted according to the order and due course of the laws of this Province, such person or persons, for the first offence shall incur and be liable to such pains and penalties as by the laws of this Province are imposed and inflicted upon persons convicted of the crime of forgery at common law ; and if the same person or persons, shall again forge or counterfeit, or cause to be forged or counterfeited any such copy or copies of any such letters patent, or of any such registry or enrollment of such letters patent, or of any such certificate as is or are herein mentioned or directed as aforesaid, or shall publish as true or shew forth in evidence any such forged or counterfeited copy or copies of any such letters patent, or of any such registry or enrollment of such letters patent, or of any such certificate as is or are herein mentioned or directed, knowing the same to be forged and counterfeited, then such person or persons, being thereof convicted according to the order and due course of the laws of this Province, shall, for such second offence, be, and is and are hereby adjudged to be guilty of felony without benefit of clergy. Penalty on person forging or counterfeiting letters patent, &c. See Tables.

57 Geo. III. **An Act for altering and amending an Act passed in the thirty-sixth year of His Majesty's Reign, intituled, *An Act for the safe custody and registering of all Letters Patent, whereby any grant of the Waste or other Lands of the Crown, lying within this Province, shall hereafter be made.***
Cap. 23.

Preamble.

So much of 36 Geo. 3, cap. 3, as relates to certain fees allowed to the secretary and to the registrar of enrollments repealed, and other and greater fees allowed.

WHEREAS the fees allowed to the secretary of the Province, and to the registrar of enrollments, in and by a certain act, &c., (36 Geo. 3. cap. 3,) have been found insufficient, and it is therefore just and expedient that the same should be augmented:—Be it therefore enacted, &c., that so much of the said act passed in the thirty-sixth year of His Majesty's reign, intituled, *An act for the safe custody and registering of all letters patent, whereby any grant of the waste or other lands of the Crown, lying within this Province, shall hereafter be made*, which declares, that for the registry and enrollment of any letters patent mentioned in the said act, the registrar of enrollments shall be entitled to demand and receive of and from the grantees in such letters patent named, the sum of ten shillings for the registry and enrollment thereof, and no more,—and which also declares, that for the copies of all such letters patent and of the registries and enrollments thereof, there shall be allowed to the secretary of the Province, and to the said registrar of enrollments, the sum of ten shillings, and no more, for such copy, be, and the same is hereby repealed; and that from and after the passing of this act, the said registrar of enrollments shall be entitled to demand and receive of and from the grantees in the said letters patent named, for the registry and enrollment of all such letters patent, as required by the said act passed in the thirty-sixth year of His Majesty's reign, the sum of ten shillings, provided the said letters patent do not contain more than two thousand words, and in case the same shall contain more than two thousand words, then the said registrar of enrollments shall be entitled to demand and receive the sum of six pence, currency, for each and every one hundred words contained in the said letters patent,—and the said secretary of the Province and the registrar of enrollments, for each and every copy of such letters patent and of the registries and enrollments thereof, which by the aforesaid act they are respectively required to furnish and deliver, shall be entitled to demand and receive from the person or persons who shall require the same, the sum of ten shillings, for each and every such copy which shall not contain more than two thousand words, but in case the same shall contain more than two thousand words, then the said secretary and registrar of enrollments shall be entitled to demand and receive the sum of six pence, currency, for each and every one hundred words contained in such copy by them respectively furnished and delivered as aforesaid; and no higher or greater fees shall in the before mentioned cases be by them demanded for such registry and enrollment, and for such copies as aforesaid, than those mentioned and allowed in and by the present act.

9 Geo. IV.
Cap. 56.

An Act to repeal and amend part of an Act passed in the thirty-sixth year of His late Majesty's Reign, intituled, *An Act for the safe custody and registering of all Letters Patent, whereby any grant of the Waste or other Lands of the Crown lying within this Province, shall hereafter be made.*

Preamble.

WHEREAS it is necessary to amend an act passed, &c., (36 Geo. 3. cap. 3,) in so far as the same relates to the manner of proving

certified copies of such letters patent in the courts of law in this Province:— Second section of 36 Geo. 3, cap. 3, repealed.
 Be it therefore enacted, &c., that the second section of the said act (36 Geo. 3. cap. 3,) shall be and the same is hereby repealed.

II. And be it further enacted, &c., that all copies of letters patent so deposited as in the last mentioned act is required, and of record in the office of the secretary of the Province, which shall be duly certified to be such, under the hand and signature of the secretary of the Province for the time being or his deputy lawfully appointed, shall be allowed and taken to be authentic, and as such shall be received as evidence in all His Majesty's courts of law in this Province, where such copies shall be produced. Certified copies of letters patent in the office of the secretary to be evidence.

7. LESSORS AND LESSEES.

An Act to regulate the exercise of certain rights of Lessors and Lessees. 3 WILL IV. Cap. 1.

WHEREAS the provisions of the existing law respecting premises held under lease, have proved in some respects insufficient for the convenient adjustment of matters in dispute between landlord and tenant : Preamble.

Be it therefore enacted, &c., that whensoever the tenant of any house, tenement or farm, shall have omitted to furnish the same with furniture or stock sufficient to secure the rent thereof, as required by law, or shall commit waste or depredation on the premises, or shall not make a right and proper use of the same, or shall continue, contrary to the will of the proprietor or lessor, to remain therein or occupy the same, (after the expiration of the lease in virtue of which he holds the said premises,) or without having paid the rent or furnished the premises according to law, so as to secure such rent, it shall be lawful for any such lessor, by a summons issued from the office of the prothonotary of the court of King's bench, or that of the provincial court of the district or the inferior district, to summon such tenant or occupier before any two of the judges, or provincial judge, or resident judge in the district of Three Rivers, in vacation, and that such judge, or provincial judge, or resident judge in vacation, shall, in due course, hear, determine and adjudge upon the matter in issue, and award costs : Proprietors or lessors how to proceed against their tenants in certain cases.
 Provided always, that when the sum of money in contestation shall not exceed ten pounds sterling, the said demand and all the proceedings thereon may be made and had before any one of the justices of the said court in vacation. See Tables.

II. And be it further enacted, &c., that whensoever any farm, dwelling-house, store or out-building or premises, holden under lease, shall be in such a state as to render it necessary that such repairs as are by law or by stipulation incumbent on the lessor, should be done thereto, and the lessor, upon being duly notified by his tenant, of the nature of such repairs and the necessity of making them, shall refuse or neglect to make them, it shall be lawful for the lessee to proceed in vacation before two judges, or a provincial judge, or the resident judge in the district of Three-Rivers, by action against the lessor, for constraining him to make such repairs forthwith, at his own expense, and for obtaining the rescision of the lease, in case of default to make such repairs. Proceedings when farms, &c., require repair, and lessor neglects or refuses to make them.

III. And be it further enacted, &c., that upon due proof in vacation before two judges, or the provincial, or said resident judge, that such On due proof, the judge may

order the repairs, or rescind the lease.

repairs are necessary, it shall be lawful for them, or him, respectively, to order that the lessor do forthwith cause such repairs to be made at his expense, and, if not accordingly made, and the default of the lessor to comply with such order be set forth by petition from the lessee to such two judges, or provincial, or resident judge, supported by due proof, it shall be lawful for them or him, respectively, by judgment, to rescind the lease upon which the action was founded.

Repairs may be made by lessee at lessor's expense.

IV. And be it further enacted, &c., that upon failure by the lessor to cause such repairs to be made according to such order, it shall be lawful for the lessee to cause them to be made at the cost of the lessor; and for the recovery of any monies such lessee may have expended in and about the making of such repairs, he shall have his action before the court of King's bench for the district.

Lessee refusing to allow the lessor making the necessary repairs, lessor how to proceed.

V. And be it further enacted, &c., that whensoever the lessee shall refuse to permit the making of any such necessary repairs, it shall be lawful for the lessor to proceed in like manner before two judges, or provincial, or resident judge for the district of Three-Rivers, for compelling him to permit them to be made; and that it shall be lawful for the said judges, or provincial, or resident judge, thereupon to order that such repairs be forthwith made, notwithstanding any resistance on the part of the lessee; and that any lessee resisting the execution of such order, shall be liable to an attachment for his contempt in so doing, and also to an action of damages at the suit of the lessor.

All actions under this act, to be instituted in the manner usual in other matters, by filing a declaration, &c.

VI. And be it further enacted, &c., that all actions under this act shall be instituted in the manner usual in other matters, by filing a declaration, and issuing a writ of summons thereupon, and causing the same to be served upon the defendant by the delivery of a copy thereof; and that when the defendant's place of residence shall be situate within the county wherein the summons shall be made returnable, there shall be between the days of service and return, (exclusively of those days,) three intermediate days, and when the defendant shall reside beyond the limits of such county, there shall be one additional intermediate day for every space of five leagues beyond those limits; that in every such action the defendant shall be bound to answer on the first day, next after return day; and that all the proceedings shall be had in the hall in which the sittings of the court of King's bench are usually holden.

If the lease is rescinded, the party not to lose his action of damages.

VII. And be it further enacted, &c., that whensoever, in any action brought under this act, the lease shall be rescinded, the party at whose instance the same may be rescinded shall not be deprived of his action of damages against the adverse party: Provided always, that nothing herein contained shall in any of the cases above specified, prevent any tenant or occupier, deeming himself aggrieved by any such lessor, from prosecuting such remedy as he may in such case be entitled to,—nor shall prevent any proprietor or lessor from availing himself of the *saisie gagerie*, nor of any other course which by law he may now pursue.

Proviso.

In what cases an appeal may lie.

See Tables.

VIII. And be it further enacted, &c., that in all cases where the matter in dispute shall exceed the sum of twenty pounds, sterling, or where either party shall demand the rescission of a lease, for the unexpired term whereof the tenant is liable to pay a sum exceeding twenty pounds sterling, an appeal shall lie to the provincial court of appeals from the judgment made and rendered in virtue of the power granted by this act, the party institut-

ing such appeal giving security to pay the amount of the judgment and execute the same faithfully, if confirmed, as is required by the laws regulating the appeals from the judgments pronounced by His Majesty's courts of law.

An Ordinance to amend and continue the Act to regulate the exercise of certain rights of Lessors and Lessees. 2 Vic. (3.) Cap. 47.

WHEREAS it is expedient to amend, and further to continue for a limited time, the act hereinafter mentioned :—Be it therefore ordained and enacted, &c., that all the powers, jurisdiction, authority and duties assigned to and vested in any judge or in any two judges of the court of King's bench, or to and in any provincial judge, or to and in the resident judge of the district of Three-Rivers, respectively, in vacation, by a certain act passed in the third year of His late Majesty's reign, intituled, *An act to regulate the exercise of certain rights of lessors and lessees*, shall be, and are hereby assigned to and vested in such judges or judge, provincial judge, or resident judge, respectively, in term as well as in vacation; any thing in the said act to the contrary notwithstanding.

The powers, &c., vested in the judges, in vacation, by 3 Will. 4. cap. 1. are also vested in them, in term.

II. And be it further ordained and enacted, &c., that the one hundred and sixty-first article of the Custom of Paris, and all the privileges and benefits conferred by that article, on proprietors and lessors of any real property within the limits of the said cities or towns, do and shall extend, and shall be possessed by the proprietors and lessors of any such real property, in any place beyond such limits; any law, custom or usage to the contrary notwithstanding.

The 161st art. of the custom of Paris extended to all lessors of real property.

8. LETTRES DE TERRIER.

An Act which declares in whom is vested the power of granting *des Lettres de Terrier* in this Province. 48 Geo. III. Cap. 6.

WHEREAS, before the conquest of Canada, the right of granting *des lettres de terrier* was vested in the intendant of this country as representing His Most Christian Majesty the King of France : And whereas doubts have arisen in regard to where the said power is now vested, and it becomes expedient to declare and enact thereon :—Be it therefore declared and enacted, &c., that the power of granting *des lettres de terrier*, within this Province, is vested in the Governor, Lieutenant-Governor or person administering the government of the Province of Lower Canada, for the time being, as representing the King's Most Excellent Majesty.

Preamble.
Power of granting lettres de terrier vested in the Governor.

CLASS F.

Relating to Customs, Duties, Revenue, Navigation, Currency, Banks, and matters more especially connected with Trade and Commercial affairs.

Customs.

1. Customs generally.
2. Inland ports.

Other Duties.

3. Taverns, hawkers, billiard tables,—licences for.
4. Sick mariners, for the support of.

Navigation and Shipping.

5. Trinity House, Quebec.
6. ———— Montreal.
7. St. Louis Rapids.
8. Pilots detained in Quarantine.
9. Quarantine.
10. Seamen, wages of.
11. Seamen, deserting, &c.

Inspection Laws.

12. Fish and oil, inspection of.

Measures of Value, Quantity, &c.

13. Weights and measures.
14. Measurement of coals.

Interest, Bills, Banks, Paper-Money, &c.

15. Interest, bills of exchange, notes, &c.
16. Banking and bankers.
17. Quebec Bank.

1. CUSTOMS, GENERALLY.

4 Geo. IV.
Cap. 14.

An Act to authorize the Governor, Lieutenant-Governor or person administering the government of the Province, to restore Goods and Vessels seized, to the Proprietor or Proprietors, on the terms and conditions therein mentioned.

Preamble.

WHEREAS it is expedient, in order to prevent the delay, inconvenience and expence that are occasioned by the detention of vessels or goods seized under circumstances wherein it would be just and reasonable that relief should be afforded, that the Governor, Lieutenant-Governor or person administering the government of this Province, should be authorized, by and with the advice of His Majesty's executive council of the said Province, to order any goods or commodities whatever, or any ships, vessels, boats, horses, cattle or carriages, which shall have been seized as forfeited by any officer or officers of the customs, or by any other person or persons by virtue and under the authority of any provincial act or ordinance made for the protection of trade, the benefit of commerce, or in any respect relating to the department of the customs, to be restored to the proprietor or proprietors, on the terms and conditions hereinafter mentioned:—Be it therefore enacted, &c., that in case any goods or commodities whatever, or any ships, vessels, boats, horses, cattle or carriages, shall be seized or forfeited, by virtue or in pursuance of any ordinance or ordinances made and passed by the Governor and legislative council of the late Province of Quebec, or of any act or acts of the provincial parliament of Lower Canada, made for the protection of trade, or the benefit of commerce, or in any respect

Governor may order goods, forfeited for breach of provincial customs' laws, to be restored in certain cases.

relating to the department of customs, it shall and may be lawful for the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being, by and with the advice of His Majesty's executive council of this Province, in case satisfactory evidence be given that the forfeiture arose without any design or intention of fraud in the proprietor or proprietors of such goods or commodities, ships, vessels, boats, horses, cattle or carriages, to order the same to be restored to such proprietor or proprietors, and also to order restoration as aforesaid, in cases where the seizure shall have been made by any such officer or officers or other person or persons as aforesaid, and it shall be made appear to the satisfaction of His Majesty's executive council of this Province, that such seizure was occasioned by the proprietor or proprietors of any such goods or commodities, ships, vessels, boats, horses, cattle or carriages, having acted in conformity with any orders or directions which the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being, shall have deemed it expedient, on any particular emergency, to issue. *See Tables.*

II. And be it further enacted, &c., that in any case wherein the Governor, Lieutenant-Governor, or person administering the government in this Province for the time being, by and with the advice of His Majesty's executive council, shall exercise the power hereby vested in him, such goods or commodities, ships, vessels, boats, horses, cattle or carriages shall be restored to the proprietor or proprietors, in such manner and on such terms and conditions as under the circumstances of the case shall appear to the Governor, Lieutenant-Governor, or person administering the government, by and with the advice of the said executive council, to be reasonable, and as they shall think fit to direct; and if the said proprietor or proprietors shall comply with the terms and conditions prescribed by the Governor, Lieutenant-Governor, or person administering the government for the time being, by and with the advice of the said executive council, it shall not be lawful for the officer or officers of the customs, or any other person or persons as aforesaid, who shall have seized such goods or commodities, ships, vessels, boats, horses, cattle or carriages, or any other person or persons whatever on his or their behalf, to proceed in any manner for the condemnation thereof; but if such proprietor or proprietors shall not comply with the terms and conditions prescribed by the Governor, Lieutenant-Governor, or person administering the government as aforesaid, by and with the advice of His Majesty's executive council, such officer or officers, person or persons, shall be at liberty, and is and are hereby authorized to proceed for the condemnation of such goods or commodities, ships, vessels, boats, horses, cattle or carriages, as if this law had not been made: Provided always, that if such proprietor or proprietors shall accept the terms and conditions prescribed by the Governor, Lieutenant-Governor, or person administering the government for the time being, by and with the advice of the said executive council, such proprietor or proprietors shall not have or be entitled to any recompence or damage, on account of the seizure or detention of such goods or commodities, ships, vessels, boats, horses, cattle or carriages, or have or maintain any action whatever for the same; any law, custom or usage to the contrary notwithstanding. *In cases where the Governor shall exercise the powers granted to him, such goods, &c. shall be restored to the proprietor of the same.*

Proviso.

Officers seizing. indemnified.

An Act to authorize the Collection of certain Duties at Montreal. 9 Geo. IV, Cap. 14.

WHEREAS inconvenience has been experienced from the necessity of paying at the port of Quebec, the duties imposed upon goods

Preamble.

Provincial duties may be paid at Montreal, in the like manner as at Quebec before the passing of this act.

imported in vessels arriving from sea and bound for Montreal ;—Be it therefore enacted, &c., that from and after the passing of this act, before the unloading at Montreal of any goods, wares or merchandizes imported in vessels arriving from sea and bound for that place, on which any rates or duties are or shall be imposed by any act or acts of the legislature of this Province, such rates or duties shall be paid, or security for the payment thereof given, to the chief officer of His Majesty's customs at Montreal, in the same manner and under the same provisions in every respect whatsoever, as such rates or duties might have been paid, or security for the payment thereof given, to the collector of His Majesty's customs at the port of Quebec, before the passing of this act ; any law, statute, usage or custom to the contrary thereof in any wise notwithstanding.

The officer of the customs at Montreal to make up his accounts quarterly.

II. And be it further enacted, &c., that such chief officer of His Majesty's customs at Montreal shall make up, quarterly, a detailed and accurate account, sworn to by him before one of the justices of the court of King's bench for the district of Montreal, of all the monies by him collected at Montreal by virtue of this act during the preceding quarter, and shall, with all convenient speed thereafter, transmit such account and pay over such monies to the receiver general of the Province for the time being, to be applied and accounted for as is by law provided respecting the rates and duties collected at the port of Quebec.

2 Will. IV,
Cap. 3.

An Act to extend the provisions of a certain Act therein mentioned, and to authorize the Collection of certain Duties at Montreal.

Preamble.

Act 9 Geo. 4.
Cap. 14, extended to duties imposed by the imperial parliament.

WHEREAS it is expedient to extend the provisions of a certain act, &c., (9 Geo. 4. cap. 14,) to duties imposed by any act or acts of the imperial parliament :—Be it therefore enacted, &c., that the said act, &c., (9 Geo. 4. cap. 14,) and the several enactments, requirements, clauses and provisions thereof, shall extend and the same are hereby extended to all duties imposed by any act of the imperial parliament, in as full and ample a manner as to any duties imposed or to be imposed by any act of the provincial legislature.

2. INLAND PORTS.

6 Will. IV.
Cap. 24.

An Act to regulate and establish the Salaries of the Officers of the Customs at the Inland Ports in this Province, and for other purposes therein mentioned.—(*Temporary.*)

MOST GRACIOUS SOVEREIGN,

Preamble.

See Tables.

Governor authorised to grant warrants for the salaries of certain officers of the customs.

WHEREAS it is expedient to regulate and establish the salaries or other emoluments of the officers in the collection of the revenue, at the several inland ports of the Province, as well as the incidental expenses attending that service :—May it therefore please Your Majesty, that it may be enacted, and be it enacted, &c., that it shall and may be lawful for the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being, by warrants under his hand, to order that out of the unappropriated monies which now are or hereafter may come into the hands of the receiver general of this Province, there be paid the sums hereinafter mentioned, to the officers employed in the collec-

tion of the revenue at the several inland ports of the Province, and for the incidental expenses attending that service, for and during the continuance of this act, and no longer, that is to say :—For the annual salary of the collector at the port of Saint John, a sum not exceeding four hundred pounds, currency; for the annual salary of the gauger, who is also to act as clerk to the collector at the same port, a sum not exceeding one hundred pounds, currency; for the annual salary of two land waiters at the same port, at the rate of seventy pounds, currency, each, a sum not exceeding one hundred and forty pounds, currency; for the annual salary of one land waiter at Lacole, a sum not exceeding fifteen pounds, currency; for the annual allowance to the collector at the port of Saint John, for rent of the custom house, a sum not exceeding forty pounds, currency; for the annual salary of the collector and inspector of merchandize at the port of Côteau du Lac, a sum not exceeding four hundred pounds, currency; for the annual salary of the comptroller at the same port, to be stationed as deputy on the Ottawa, a sum not exceeding two hundred pounds, currency; for the annual salary of two land waiters at the same port, at the rate of thirty pounds, currency, each, a sum not exceeding sixty pounds, currency; for the annual allowance of the collector at the same port, for rent of custom house, a sum not exceeding thirty-six pounds, currency; for the annual allowance to the collector and land waiter at the same port, for a boat and hands, a sum not exceeding sixty pounds, currency; for the annual allowance to the collector at the port of Stanstead, for rent of the custom house and all other contingencies whatever, a sum not exceeding twenty-five pounds, currency; for the commission of the collector at the port of Stanstead upon the duties collected, such sum as the said commission may amount to, at the rate of fifty per cent. upon the amount collected,—provided that such commission shall not exceed the annual sum of one hundred pounds, currency; for the annual salary of one land waiter at Stanstead, a sum not exceeding fifteen pounds, currency; for the commission of the collector at the port near the bridge on the Portage river, on the Kennebec road, in the county of Beauce, upon the duties collected, such sum as the said commission may amount to, at the rate of fifty per cent. upon the amount collected,—provided that such commission shall not exceed the annual sum of one hundred pounds, currency; for the annual allowance to the collector at the port of Beauce, for rent of a custom house and all other contingencies whatsoever, a sum not exceeding twenty-five pounds, currency;—the said salaries and allowances to be reckoned from the first of May of the year one thousand eight hundred and thirty-five.

Amount of salaries and incidental expenses.

Proviso.

See Tables.

II. And be it further enacted, &c., that the salaries and allowances, hereby established and granted to the several officers of the inland ports of entry, shall be in lieu and stead of all other fees or allowances whatsoever; and the said salaries and allowances shall be paid to the said officers respectively, by warrants under the hand of the Governor, Lieutenant-Governor, or person administering the government of the Province for the time being: Provided always, that no such warrant shall be issued in favor of any such collector or comptroller, for any sum to them due by virtue of this act, until a certificate be granted by the proper officer, that the quarterly accounts of duties received by such collector, accompanied by receipts from the receiver general of the Province for the total amount collected, shall have been duly transmitted.

Salaries to be in lieu of all fees.

Proviso.

III. And be it further enacted, &c., that from and after the first day of May next, no person shall perform the duties of collector or of comptroller

Collectors and comptrollers at

certain inland ports, to give security for the due performance of their duties.

See Tables.

Bonds to be made double.

See Tables.

Before the bond is executed, notice to be given to the attorney general, or in his absence, to the solicitor general.

Proviso.

In case of the death, insolvency, &c. of the sureties, officers to give new securities.

See Tables.

Penalty on persons performing the duty without

at Saint John's or at Côteau du Lac, or of collector at Stanstead or at La Beauce, until after he shall have given security to His Majesty, His Heirs and Successors, for the due performance of the duties of such offices respectively, that is to say,—the collectors at Saint John's and at Côteau du Lac, in the sum of two thousand pounds, currency,—and the comptroller, at the last mentioned port, in the sum of one thousand pounds, currency,—and the collectors at Stanstead and La Beauce, in the sum of five hundred pounds, currency ;—and the condition of the bond shall be, that the person giving the same shall well and faithfully perform each and every of the duties of his office, and shall faithfully pay over all monies which he shall collect or receive in the performance of his duties ; and the King, or any person whosoever, who may sustain injury from the non-performance of the condition aforesaid, may avail himself of such bond.

IV. And be it further enacted, &c., that every bond entered into under the requirements of this act, shall be made double and shall be taken by the secretary of the Province ; and one part thereof shall be deposited in the office of the prothonotary or clerk of the court of King's bench or provincial court, of the district in which each of the said officers shall respectively perform the duties of his office, and the other part shall be deposited in the archives of the provincial secretary ; and any person shall be entitled to communication of such bond and to have a copy thereof, at any such place of deposit, on paying one shilling, currency, for each communication, and five shillings, currency, for each copy.

V. And be it further enacted, &c., that before the taking or receiving of the bond, suretyship or *cautionnement* required by this act, notice in writing shall be given to His Majesty's attorney general, or in his absence to the solicitor general, three days at least before the time of giving such bond or suretyship, and one additional day for each and every ten leagues distance between the place of residence of the attorney or solicitor general, as the case may be, and the place where such bond or suretyship shall be intended to be given, specifying the day, hour and particular place of giving such bond or suretyship, and the names, additions and abode of the persons intending to become sureties ; and no such bond or suretyship shall be taken or received until after due proof upon oath shall have been made of the giving of such notice in writing ; which proof of notice shall remain of record in the office of the secretary of this Province, and communication thereof shall at all times be given *gratis*, to any person applying for the same : Provided always, that such security shall not be held valid until the sureties shall have justified their sufficiency to the amount in which they shall be respectively liable.

VI. And be it further enacted, &c., that in case any person or persons who shall have become surety or sureties for any of the said officers under the requirements of this act, shall afterwards die or become insolvent, *en déconfiture*, or depart from this Province with the intent of establishing his domicile elsewhere, the said officer for whom any such person or persons had become surety or sureties, shall, within one calendar month, give fresh security in the manner and to the amount hereinbefore required ; and duplicates of the act of every such new suretyship shall be transmitted and deposited as hereinbefore enacted and required.

VII. And be it further enacted, &c., that every person who shall presume to do and perform any duty belonging to the office of any of the said officers, without having first given security as required by this act, or who,

having given such security, shall refuse or neglect to renew the same in any of the cases requiring such renewal under the requirements of this act, and shall continue to fulfil the duties of the said office, after such refusal or neglect, shall be dismissed from the said office and shall forfeit and pay for the said offence, a sum of five hundred pounds, currency, to be recovered with costs of suit, in any court of King's bench, by act of debt, bill, plaint or information; one moiety of which penalty shall go to His Majesty, and the other moiety to any person or persons who shall sue for the same, within six months after the offence shall have been committed.

having given security.

See Tables.

VIII. And be it further enacted, &c., that when any of the said officers shall die, be removed from or resign his office, and that within the space of eighteen months from and after such death, removal or resignation, no misbehaviour shall appear to have been committed by such officer in the execution of his said office, then and in such case, at the end of the said eighteen months, the bond or suretyship so entered into by his said sureties; shall become void and of no effect as to such sureties, to all intents and purposes whatsoever; but such officer, his heirs, executors, administrators or curators, respectively, shall not be exonerated if misbehaviour shall afterwards be discovered and established.

Cases in which after the death, removal or resignation of any officer, their sureties shall be exonerated.

See Tables.

IX. And be it further enacted, &c., that all and every the boats belonging to any of His Majesty's subjects, and coming from the Province of Upper Canada into this Province, shall enter and report at the port of Coteau du Lac, or any other port or ports hereafter to be established, according to law.

Boats from Upper Canada where to enter and report.

X. And be it further enacted, &c., that any person in charge of any bateau, boat, or other vessel, or of any land carriage conveying goods to Upper Canada, shall deliver to the collector of the customs at Coteau du Lac, (or to the comptroller to be stationed on the Ottawa, if they shall be conveyed by that route,) a statement shewing the quantity and value of the different kinds of goods, wares and merchandize, in the form of the schedule annexed to this act, under a penalty of forty shillings, currency, on any such person who shall present a false statement, or shall pass by without delivering such statement as aforesaid; and such penalty shall be recoverable with costs, before any one or more justices of the peace, on the evidence of one or more credible witnesses, by seizure and sale of the goods and chattels of the defendant, under the warrant of such justice or justices of the peace; and one moiety of such penalty shall belong to the prosecutor, and the other moiety to His Majesty.

Persons in charge of boats &c. with goods to Upper Canada, to deliver a statement shewing the quantity and value of the goods.

XI. And be it further enacted, &c., that the hours of public business at the custom-house at the several inland ports of this Province, shall be, from the first of April to the first of December, from seven o'clock in the morning till five in the afternoon,—and from the first of December to the first of April, from eight o'clock in the morning till four in the afternoon.

Hours of public business at the custom-houses.

XII. And be it further enacted, &c., that the collectors of the customs at the several inland ports of this Province, shall respectively, within fifteen days after the expiration of each quarter, transmit to the proper officer their accounts of the duties by them received, with the receipts of the receiver general for the whole sum levied during the quarter; and it shall be the duty of the collector of the customs at all the different ports now or to be hereafter established in this Province, to make up to the thirty-first of December in every year, detailed statements of the exports and imports at

Collectors to transmit their accounts after the expiration of each quarter to the proper officer.

See Tables.

their respective ports, to be laid before the different branches of the legislature,—also a statement of the number of passengers arrived at their respective ports during the same period, to be also laid before the legislature; and the collector at Coteau du Lac shall also distinguish the imports and exports to and from Upper Canada, from those to and from the United States.

Governor may advance a certain sum of money to defray the expense of printing blank registers.

Proviso.

XIII. And be it further enacted, &c., that it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government for the time being, by warrant under his hand and out of any unappropriated monies in the hands of the receiver general, to advance and pay a sum not exceeding one hundred pounds, currency, to defray the expense of printing blank registers and forms of accounts for the use of the officers at the several ports of entry: Provided always, that the said printing shall be done by contract, after an advertisement for tenders shall have been inserted during two weeks, in one of the newspapers published in the city of Quebec; and the lowest tender shall be accepted, and a sufficient number of copies thereof shall be printed and shall remain in reserve at the proper office at Quebec, for the purpose of being transmitted to the several ports of entry as need shall be, and under such regulations as are adapted by the commissioners of customs with respect to the collector of the customs at Quebec.

Officers at Montreal and at the inland ports, may transmit their duties in bills of exchange.

XIV. And be it further enacted, &c., that it shall be lawful for the collector of the customs at Montreal, and for the collectors at the several inland ports of entry in this Province, respectively, to transmit to the receiver general the amount of the duties by them collected, in bills of exchange; each of the said officers remaining, nevertheless, responsible for the amount so by him transmitted, until such bills of exchange shall have been paid; and the sum actually paid as premium on such bills of exchange shall be allowed to the said officers, respectively, and they are hereby authorised to charge the same in their respective quarterly accounts.

Duty of the receiver general, on the transmission of bills of exchange received by him from the collectors of customs.

XV. And be it further enacted, &c., that it shall be the duty of the receiver general of this Province to cause all bills of exchange transmitted to him by the collector of the customs at Montreal, or by the collectors at the several inland ports of entry in this Province, to be presented for payment when due; and if he shall fail so to present any such bill, or to protest the same, in conformity to the provisions of this act, the said receiver general shall be responsible for the loss arising to the Province on such bills of exchange, and the officer or officers of the customs who may have transmitted the same to him, shall be discharged from all responsibility for such loss.

Governor empowered to pay certain sums of money to tide waiters and certain arrears of salary.

See Tables.

XVI. And be it further enacted, &c., that it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government, to pay by warrant under his hand, out of any unappropriated monies in the hands of the receiver general, a sum not exceeding fifty pounds, currency, to each of the two established tide-waiters at the port of Quebec, being the amount of their respective salaries for the year now last past, and the same annual allowance during the continuance of this act,—and such further sum as may be necessary for the purpose of paying to the tide-waiters, respectively, an allowance of five shillings a day for every day they shall be actually employed on board any vessel after the passing of this act; also a sum not exceeding two hundred and sixty-six pounds, thirteen shillings and four pence, currency, to John Simpson, collector at Coteau du Lac, as arrears of salary due to him from the first of May, one thousand eight hundred and twenty-six, to the first of January, one thousand eight hundred and

twenty-nine; and a sum not exceeding one hundred and twenty-five pounds, currency, to William Dobie Lindsay, late comptroller at the port of Saint John's, as arrears of salary due to him from the first of May, one thousand eight hundred and thirty-five, to the first of March, one thousand eight hundred and thirty-six.

XVII. And be it further enacted, &c., that no collector, comptroller, searcher, or other officer or person whatsoever concerned or employed in the collection or management of the customs, or of any branch or portion thereof, shall vote at any election of a member or of members to serve in the assembly of this Province; and if any person hereby forbidden to vote as aforesaid, shall nevertheless, while he shall hold, or within twelve calendar months after he shall have ceased to hold any such office as aforesaid, vote at any such election, contrary to the true intent and meaning of this act, the vote so given shall be null and of no effect, and the person so offending shall incur a penalty of one hundred pounds, currency, (one moiety whereof shall go to the prosecutor, and the other moiety to His Majesty,) recoverable with costs, before any quarter sessions of the peace for the district wherein the offence shall have been committed, or for the district in which the offender shall reside, and levied on the goods and chattels of such offender, under the warrant of such court; and each and every person so convicted shall thenceforth and for ever be incapable of holding any place of confidence under His Majesty's government; nor shall any such officer be elected or appointed a member of any branch of the provincial parliament, or sit or vote therein, under a penalty of five hundred pounds, currency, for each day he shall sit or vote in the house of assembly, or in the legislative council of this province; such penalty shall be recoverable in the same manner as that hereinbefore imposed.

No collector or other officer of the customs, to vote at an election of a member of the assembly, nor to be a member of the legislature.

See Tables.

Penalty.

XVIII. And be it further enacted, &c., that any prosecution, founded on any contravention of the preceding section, shall be commenced within twelve calendar months from the commission of the offence, and not afterwards.

Limitation of actions.

XIX. And be it further enacted, &c., that every importer of any goods shall, within fourteen days after the arrival of the ship importing the same, make an entry inwards of such goods, and shall within such time land the same, and in default of such entry and landing, it shall be lawful for the officers of the customs to convey such goods to the King's warehouse; and whenever the cargo of any ship shall have been discharged, with the exception only of a small quantity of goods, it shall be lawful for the officers of the customs to convey such remaining goods, and at any time to convey any small packages or parcels of goods, to the King's warehouse, although such fourteen days shall not have expired, there to be kept waiting the due entry thereof, during the remainder of such fourteen days; and if the duties due upon any goods so conveyed to the King's warehouse shall not be paid within six months after such fourteen days shall have expired, together with all charges of removal and warehouse rent, the same shall be sold, and the produce thereof shall be applied for the payment of freight and charges, next of duties, and the surplus, if any, shall be paid to the proprietor of the goods.

Importers of goods to make entry within a certain time.

See Tables.

Duty of the custom house officers if such entry be not made.

XXI. And be it further enacted, &c., that the unshipping, carrying and landing of all goods, and bringing of the same to the proper place after landing, for examination or for weighing, and the putting the same into the scales, and the letting out of and from the scales, after weighing, shall be performed by or at the expense of the importer.

The unshipping, &c. of goods to be at the expense of the importer.

Detailed accounts of the expenditure of the money to be made up and transmitted to the officer whose duty it is to receive such account,

XXII. And be it further enacted, &c., that every person to whom shall be entrusted the expenditure of any portion of the monies hereby appropriated, shall make up detailed accounts of such expenditure, shewing the sum advanced to the accountant, the sum actually expended, the balance, if any, remaining in his hands, and the amount of the monies hereby appropriated to the purpose for which such advance shall have been made, remaining unexpended in the hands of the receiver general; and that every such account shall be supported by vouchers, therein distinctly referred to by numbers corresponding to the numbering of the items in such account,—and shall be made up to, and closed on the tenth day of April and the tenth day of October, in each year during which such expenditure shall be made, and shall be attested before a justice of the court of King's bench, or a justice of the peace, and shall be transmitted to the officer whose duty it shall be to receive such account, within fifteen days next after the expiration of the said periods respectively.

Application of the money to be accounted for to His Majesty and to the legislature,

XXIII. And be it further enacted, &c., that the due application of the monies appropriated by this act, shall be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall direct; and that a detailed account of the expenditure of all such monies shall be laid before the several branches of the legislature, within the first fifteen days of the next session thereof.

SCHEDULE.

Statement shewing the quantity and value of the different kinds of good, wares and merchandizes shipped or laden on board the boat or carriage,

Master, bound for

in Upper Canada.

ARTICLES.	Quantity and Number.	Value on which duty was paid at Quebec, (if known.)	Invoice value.
Value of goods, wares or merchandize subject to an <i>ad valorem</i> duty at Quebec.			
Jamaica spirits or rum,.....	gallons.		
Gin, brandy, or cordials,.....	do.		
Madeira wines,.....	do.		
Other wines,.....	do.		
Coffee,.....	pounds.		
Bohea tea,.....	do.		
Hyson, do.....	do.		
Hyson skin, young hyson, twankay, souchong, and other teas,.....	do.		
Playing cards,.....	packs.		
Loaf sugar,.....	pounds.		
Muscovado sugar,.....	do.		
Molasses,.....	gallons.		
Salt,.....	bushels.		
Pimento,.....	pounds.		
Tobacco, { plug,.....	do.		
{ leaf,.....	do.		
Passengers,.....	number.		

3. TAVERNS, HAWKERS, BILLIARD TABLES, LICENCES FOR.

An Act for granting to His Majesty Duties on Licences to ^{35 Geo. III. Cap. 8.} Hawkers, Pedlars and Petty Chapmen, and for regulating their trade; and for granting additional duties on licences to persons for keeping houses of Public Entertainment, or for retailing Wine, Brandy, Rum or other Spirituous Liquors in this Province, and for regulating the same; and for repealing the Act or Ordinance therein mentioned.

MOST GRACIOUS SOVEREIGN,

WE, Your Majesty's most dutiful and loyal subjects, the representatives ^{Preamble.} of Your people of the Province of Lower Canada in legislature assembled, towards raising the supplies which we have freely and voluntarily granted to Your Majesty in this session of the legislature, have resolved to give and grant unto Your Majesty the several new and additional rates and duties upon licences hereinafter mentioned;—And do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted, &c., that ^{After the 5th of April, 1796, every hawker, &c. to pay a duty of two pounds, and retailers of wine, &c. the like sum.} there shall be raised, levied, collected and paid unto and for the use of His Majesty, His Heirs and Successors, the several and respective duties hereinafter mentioned for and upon the several and respective licences, to be taken out in manner and by the persons hereinafter mentioned, that is to say, on or before the fifth day of April, one thousand seven hundred and ninety-six, there shall be taken out a licence by every hawker, pedlar, petty chapman, and every trading person or persons going from town to town or to other men's houses, and travelling either on foot or with horse or horses, or otherwise within this Province, carrying to sell or exposing to sale any goods, wares or merchandizes,—for which licence there shall be paid the sum of two pounds, current money of this Province, at the time such licence shall be taken out; and on or before the said fifth day of April, one thousand seven hundred and ninety-six, there shall be paid by every person or persons who shall take out a licence for keeping a house, or any other place of public entertainment, or for retailing wine, brandy, rum or other spirituous liquors within this Province, in a less quantity than three gallons at one time, under the act of the parliament of Great Britain passed in the fourteenth year of His Majesty's reign, chapter eighty-eight, the sum of two pounds, current money of this Province, over and above the duty now payable by him, her or them for such licence, under the said act of parliament, and such additional sum shall be paid before the delivery of such licence: ^{Proviso.} Provided always, that persons in partnership shall not be obliged to take out more than one licence in any one year for keeping a house or other place of public entertainment, or for retailing wine, brandy, rum or other spirituous liquors as aforesaid; but that no one licence which shall be granted, shall authorize or empower any person or persons to whom the same shall be granted, to carry on his, her or their said business in more than one house or place by himself, herself or themselves, or by any person or persons employed by him, her or them.

II. And be it further enacted, &c., that all and every person or persons that shall take out any such licences as aforesaid, is and are hereby required to take out a fresh licence on or before the fifth day of April in every year, before he, she or they shall presume so to travel and trade, or to keep a house or any other place of public entertainment, or to retail wine, brandy, rum or other spirituous liquors as aforesaid, and in the same manner to ^{And to renew their licences annually.} ^{See Tables.}

renew such licence from year to year, paying down the like sum for each and every year and renewed licence, as is by this act required for the first licence.

Persons keep-
ing houses of
public enter-
tainment, to be
approved of by
two justices of
the peace.

III. And be it further enacted, &c., that no licence shall be granted to any person or persons for keeping any house or other place of public entertainment within the cities of Quebec or Montreal, or the town of Three Rivers, or the suburbs or *banlieue* of any of them, respectively, until the person or persons applying for the same, shall have been approved of by two or more of His Majesty's justices of the peace, in their general quarter or special sessions, as a fit and proper person for keeping such house or other place of public entertainment; and that no licence shall be granted for keeping any such house in any other part of the Province, unless that the person or persons applying for the same, shall produce a certificate under the hands of three respectable house-holders of the parish, one of which shall be a church-warden thereof, where such house is intended to be kept, certifying that the person or persons so applying is or are fit and proper persons for keeping such house or other place of public entertainment.

But see Tables.

And to give
bond to keep
an orderly
house.

IV. And be it further enacted, &c., that no licence shall be granted for keeping any such house or other place of public entertainment, till the person or persons applying for the same, shall have entered into bond before two or more justices of the peace, in the sum of ten pounds, current money of this Province, with two sureties in the sum of five pounds, of the same currency, each, to do his or her utmost to keep the peace and an orderly house, and not to vend any spirituous liquors during divine service on Sundays or Holy-days, except for the use of the sick or travellers, nor to suffer any seamen, soldiers, apprentices or servants to remain tippling in his, her or their house after nine o'clock in the evening in winter, or after ten in the evening in summer, nor until a certificate from the clerk of the peace of such bond being entered into, shall be produced to the secretary of this Province, or to his deputy or agent.

See Tables.

Every hawker
to take the oath
of allegiance.

V. And be it further enacted, &c., that every person or persons before receiving his, her or their licence under this act, as a hawker, pedlar or petty chapman, or under the aforesaid act of parliament, for keeping a house or other place of public entertainment, shall take and subscribe in court in general quarter or special sessions of the peace for the district in which he, she or they shall reside, the oath of allegiance to His Majesty required by law, which oath the justices of the peace in such sessions are hereby empowered and required to administer; and for granting a certificate that such oath has been taken, the clerk of the peace shall be entitled to demand and receive the sum of one shilling, current money aforesaid, and no more: Provided always, that in order to avoid the unnecessary repetition of oaths, if any such person shall have once taken such oath on receiving a licence, he or she shall not be required to take the same again on receiving a renewed licence.

See Tables.

Proviso.

Governor, &c.
to grant licen-
ces.

VI. And be it further enacted, &c., that the licences herein before mentioned shall be granted by the Governor, Lieutenant-Governor, or person administering the government for the time being; and for every such licence that shall be delivered at Quebec, there shall be paid by the person or persons applying for the same, to the secretary of the Province, for countersigning such licence to be granted under the aforesaid act of parliament or under this act, and for delivering the same, the sum of five shillings, current money of this Province, and no more, over and above the sum to be paid unto and for the use of His Majesty, His Heirs and Successors, for such

Fees thereon
in Quebec.

See Tables.

licence ; and for every such licence that shall be delivered at the city of Montreal or town of Three-Rivers, or at any place within the inferior district of Gaspé, which licences the said secretary is hereby required to deliver by himself or his deputy or agent at such city, town or place, respectively, if demanded, for the accommodation of those who shall reside within the districts of Montreal or Three-Rivers, or inferior district of Gaspé, there shall be paid by the person or persons so applying, to the said secretary or his deputy or agent, and for which deputy or agent the said secretary shall be responsible, for countersigning such licence as aforesaid, and for delivering the same at such city, town or place, the sum of seven shillings and six pence, current money aforesaid, and no more, over and above the sum to be paid unto and for the use of His Majesty, His Heirs and Successors for such licence : And there shall also, by every person or persons so taking out a licence for keeping a house or other place of public entertainment, be paid to the clerk of the peace for entering the bond to be by such person or persons entered into, for granting a certificate thereof, and for any entry he may make concerning the same, the sum of two shillings and six pence, current money aforesaid, and no more.

Fees elsewhere.

Fees on bonds,

VII. And be it further enacted, &c., that if any such hawker, pedlar, petty chapman or other trading person, travelling as aforesaid, shall, from and after the said fifth day of April, one thousand seven hundred and ninety-six, be found travelling, as aforesaid, without first taking out such licence, and renewing the same yearly, as aforesaid, or contrary to or otherwise than as shall be allowed by such licence or renewed licence, every such person shall, for each and every such offence, forfeit the sum of ten pounds, current money aforesaid, to be recovered and applied as hereinafter mentioned ; and that if any person so travelling under and by virtue of any licence or renewed licence to him or her granted, as aforesaid, upon demand being made by any justice of the peace, officer of militia, constable or peace officer of the district, county, town or place where he or she shall so trade, shall refuse to produce and shew his or her licence or renewed licence for so trading as aforesaid, or shall not have his or her licence or renewed licence for so trading as aforesaid, ready to produce and shew unto such justice of the peace, officer of militia, constable or peace officer, that then the person so refusing or not having his or her licence or renewed licence, shall forfeit the sum of ten pounds, current money as aforesaid, to be recovered and applied as hereinafter mentioned ; and that if any person or persons after the period aforesaid, shall keep any house or other place of public entertainment, or shall retail any wine or spirituous liquors as aforesaid, in a less quantity than three gallons at one time, without having paid the additional duty or sum of two pounds, current money aforesaid, imposed by this act upon licences to be granted under the aforesaid act of parliament, every such person shall, for every such offence, forfeit the penalty of ten pounds, sterling money of Great Britain, imposed by the aforesaid act of parliament upon any person for keeping any such house or place of entertainment, or retailing any such liquors without such licence.

Penalty on hawkers, &c. trading without licence.

Or refusing to produce it.

On persons retailing spirituous liquors, &c., without having paid the duty imposed by this act. See Tables.

VIII. Provided always, and it is hereby enacted, that nothing herein contained shall be construed to extend to prohibit or prevent any such hawker, pedlar or petty chapman from having and employing a servant to accompany him or her, for the sole purpose of carrying or assisting to carry his or her package or packages of goods, wares and merchandizes, without taking out or paying for a licence for any such servant so accompanying him or her.

Hawker may employ a servant.

Hawker, &c.
may be detain-
ed till he pro-
duces his li-
cence.

IX. And be it further enacted, &c., that it shall and may be lawful for any officer of militia, constable or peace officer, to seize and detain any such hawker, pedlar, petty chapman or other trading person as aforesaid, who shall be found trading without a licence contrary to this act, or who being found trading, shall refuse or neglect to produce a licence according to this act, after being required so to do for a reasonable time,—in order to his or her being carried, and they are hereby required to carry such persons so seized, unless they shall in the mean time produce their respective licences, before two of His Majesty's justices of the peace, the nearest to the place where such offence or offences shall be committed; which said two justices of the peace are hereby authorized and strictly required, either upon the confession of the party offending, or due proof by witness, other than the informer, upon oath, which oath they are hereby empowered to administer, that the person or persons so brought before them had so traded as aforesaid, without licence, and in case no such licence shall be produced by such offender or offenders before such justices,—by warrant under their hands and seals directed to a constable or peace officer, to cause the said sum of ten pounds, with reasonable costs, to be forthwith levied by distress and sale of the goods, wares or merchandizes of such offender or offenders or of the goods with which such offender or offenders shall be found trading as aforesaid, rendering the overplus, if any there be, to the owner or owners thereof, after deduction of the reasonable charges for taking the said distress, and out of the sale to pay the said respective penalties and forfeitures with costs aforesaid.

Penalty for
forging a li-
cence.

X. And be it further enacted, &c., that if any person or persons whatsoever shall forge or counterfeit any licence or licences, by the aforesaid act of parliament or by this act required to be granted, or shall travel with or have in his or her possession, such forged or counterfeited licence or licences for any of the purposes aforesaid, knowing the same to be forged or counterfeited, every such person shall for every such offence, forfeit the sum of fifty pounds, current money aforesaid, to be recovered and applied as hereinafter mentioned.

Penalty on
lending out a
licence.

XI. And be it further enacted, &c., that in case any person shall let out to hire or lend any licence to him or her granted as aforesaid, or shall so trade, keep a house or any place of public entertainment, or retail any wines or spirituous liquors, with or under colour of any licence granted to any other person whatsoever, or of any licence in which his or her own real name shall not be inserted as the name of the person to whom the same is granted,—the person letting out to hire or lending any such licence, and the person so trading, keeping a house or retailing as aforesaid, with or under colour of any licence granted to any other person, or any licence in which his or her own real name shall not be inserted as the name of the person to whom the same is granted, shall each of them forfeit the sum of ten pounds, current money of this Province, to be recovered and applied as hereinafter mentioned.

Penalty on
hawkers for
holding sedi-
tious dis-
courses.

XII. And be it further enacted, &c., that if any person having a licence so to trade or keep a house or place of public entertainment, shall be convicted in any of His Majesty's courts of King's bench in this Province, of holding seditious discourses, uttering treasonable words, maliciously spreading false news, publishing or distributing libellous or seditious papers, written or printed, tending to excite discontent in the minds, and to lessen the affections of His Majesty's subjects, or to disturb the peace and tranqui-

lity of this Province, such, his or her licence shall be from henceforth forfeited and void, and he or she shall be utterly incapable of having any licence again granted to him or her for so trading, or for keeping a house or place of public entertainment, and shall also be subject to such other penalty or punishment as by law may be inflicted for such offence.

XIII. Provided always, and it is hereby enacted, that nothing in this act contained shall extend or be construed to extend, to prohibit any person or persons from selling any acts of the legislature, prayer books, or church catechisms, proclamations, gazettes, almanacs or other printed papers that shall be licensed by authority, or any fish, fruits or victuals, nor to hinder any person or persons who are the real makers or workers of any goods, wares or manufactures, or his or their children, apprentices, agents or servants to such real workers or makers of such goods, wares or manufactures, only, from carrying abroad, exposing to sale and selling by retail or otherwise, any of the said goods, wares and manufactures of his, her or their own making, in any part of this Province; nor any tinkers, coopers, glaziers, harness makers or other persons usually trading in mending kettles, tubs, household goods or harness whatsoever, from going about and carrying with him, her or them, proper materials for mending the same, without having a licence as aforesaid: Provided also, that this act shall not be construed to extend to prohibit hucksters or persons having stalls or stands in the markets in the towns within this Province, from selling or exposing to sale without having a licence as aforesaid, any fish, fruits or victuals, or goods, wares and merchandizes, in such stalls or stands, they complying with such rules and regulations of police, as by the justices in their general quarter sessions of the peace, are or may be established in such towns respecting such stalls and stands.

This act not to prohibit the sale of acts of the legislature, &c., nor of goods or wares by the makers thereof, &c.

And not to hinder the sale of goods in any public market.

XIV. And be it further enacted, &c., that all pecuniary penalties which shall be incurred under this act, of a greater sum than ten pounds, current money of this Province, shall be recovered together with costs of suit, in any of His Majesty's courts of record in this Province, by action of debt, bill, plaint or information.

Penalties above ten pounds, how to be recovered.

XV. And be it further enacted, &c., that in all cases where the pecuniary penalty by this act imposed, doth not exceed the sum of ten pounds, current money aforesaid, or if imposed by the aforesaid act of parliament, where the same doth not exceed the sum of ten pounds, sterling, it shall be recovered with costs of suit, before any one of His Majesty's justices of the courts of King's bench, or any provincial judge, in the circuits of their respective districts by law directed to be made, or before any two of His Majesty's justices of the peace of the district wherein the offence shall be committed, in the weekly sittings of such justices directed by law to be held at the cities of Quebec and Montreal and town of Three-Rivers, except where it is otherwise provided,—on proof of the offence, either by voluntary confession of the party or parties accused, or by oath of one or more credible witness or witnesses, other than the informer, which oath all and every of the said justices and judges are hereby empowered to administer,—and in all cases of non-payment, shall be levied by distress and sale of the offender's goods and chattels, by warrant under the hand and seal of such justice of the court of King's bench or provincial judge, or under the hands and seals of such justices of the peace, directed to a constable or peace officer; and the overplus of the money raised, after deducting the penalty and costs of suit, with the expenses of the distress and sale, shall be returned to the owner;

Penalties imposed by this act, under ten pounds current money,—or by act of parliament, under ten pounds sterling, how recoverable.

and for want of sufficient distress, the offender shall be sent by such justice, judge or justices of the peace to the nearest gaol, for such time not exceeding six months nor less than one month, as such justice, judge or justice of the peace shall think most proper.

Limitation of actions.

XVI. Provided always, and it is hereby enacted, that no suit or action shall be brought or commenced against any person or persons for any penalty by this act imposed, that shall not be brought or commenced within twelve months after the offence or offences respectively committed.

Persons aggrieved may appeal.

XVII. And be it further enacted, &c., that if any person or persons shall find himself, herself or themselves aggrieved by any judgment by any justices of the peace given in pursuance of this act, then he, she or they shall and may, upon giving security to the amount of the value of such penalty and forfeiture, together with such costs as shall be awarded in case any such judgment be affirmed, appeal to the justices of the peace at the next general quarter sessions of the peace for the district; but if such quarter sessions are to be held within ten days, then the appeal may be to the general quarter sessions of the peace following, who are hereby empowered to summon and examine witnesses upon oath, and finally to hear and determine the same; and in case the judgment of such justices be affirmed, it shall be lawful for the justices in such general quarter sessions, to award the person or persons to pay such costs, occasioned by such appeal, as to them shall seem meet.

See Tables.

Penalties on witnesses for non-appearance.

XVIII. And be it further enacted, &c., that if any person or persons shall be summoned as a witness or witnesses, to give evidence before any justices of the peace touching any of the matters relative to this act, and shall neglect or refuse to appear at the time and place for that purpose appointed, without reasonable excuse for such neglect or refusal, to be allowed of by such justices, or appearing, shall refuse to be examined on oath and to give evidence before such justices of the peace, before whom the prosecution shall be depending, that then every such person shall forfeit, for every such offence, the sum of ten pounds, current money aforesaid, to be levied, recovered and paid in such manner and by such means as are herein directed as to other penalties.

Money to be paid to the receiver general and how applied.

XIX. And be it further enacted, &c., that all the monies arising from the rates and duties hereinbefore mentioned, shall be paid by the person or persons receiving the same, into the hands of His Majesty's receiver general of this Province, for the time being; and the moiety of every pecuniary penalty or forfeiture by this act imposed, shall belong to His Majesty, His Heirs and Successors, and shall also be paid by the person or persons respectively receiving the same into the hands of the said receiver general, and shall be applied to the purposes appointed in the act passed in this session of the legislature, intituled, *An act for granting to His Majesty additional and new duties on certain goods, wares and merchandizes, and for appropriating the same towards further defraying the charges of the administration of justice and support of the civil government within this Province, and for other purposes therein mentioned*; and the due application of such monies, according to such appointment, shall be accounted for to His Majesty, His Heirs and Successors, through the commissioners of His Majesty's treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall direct,—and the other moiety thereof shall belong to the person or persons who shall sue or prosecute for the same.

See Tables.

XX. And be it further enacted, &c., that if any action or suit shall be brought or commenced against any person or persons for any thing done in pursuance of this act, such action or suit shall be commenced within six months next after the matter or thing done, and not afterwards; and the defendant or defendants in such action or suit may plead the general issue and give this act and the special matter in evidence at any trial to be had thereupon; and if afterwards judgment shall be given for the defendant or defendants, or the plaintiff or plaintiffs shall become non-suited, or discontinue his, her or their action or suit after the defendant or defendants shall have appeared, then such defendant or defendants shall have treble costs awarded to him, her or them, against such plaintiff or plaintiffs, and have the like remedy for the same as any defendant or defendants hath or have in other cases to recover costs at law.

Limitation of actions.

General issue.

Treble costs.

An Act to extend the powers of the Justices of the Peace, in certain cases specified in the fifteenth section of an Act of the Legislature of this Province, of the thirty-fifth year of the Reign of His Majesty George the Third, chapter eight.

3 Geo. IV.
Cap. 12.

WHEREAS it is expedient, for the more easy recovery of the penalties imposed by an act of the parliament of Great Britain, of the fifteenth year of the reign of His Majesty George the Third, chapter eight, to extend the powers conferred upon the justices of the peace in this Province, by the fifteenth section of an act, &c., (35 Geo. 3. cap.

Preamble.

8.):—Be it therefore enacted, &c., that all and every the powers and authorities which by the said fifteenth section of the aforesaid act, &c., (35 Geo. 3. cap. 8.) are given to and conferred upon, and that may be exercised by any two of His Majesty's justices of the peace, in the weekly sittings of such justices, directed by law to be held at the cities of Quebec and Montreal, and in the town of Three-Rivers, shall be, and the same are hereby given to and may be exercised by any two justices of the peace residing in the county where the offence may have been committed.

Powers conferred by 15th sec. 35 Geo. 3. cap. 8, extended to justices of the peace, in their weekly sittings.

II. Provided always and be it further enacted, &c., that when any conviction may take place before such justices of the peace, in virtue of the power and authority by this act given, the said justices of the peace before whom the conviction shall have been made, shall be bound to take in writing the deposition or evidence upon which the conviction may have been made, to the end that, in the event of a revision of the conviction and judgment by a competent authority, the facts upon which such conviction and judgment may have been made and rendered, may manifestly appear.

Justices to take in writing the deposition and the evidence on which the conviction is founded.

III. Provided always, and be it further enacted, &c., that if any person or persons shall find himself or themselves aggrieved by any judgment that may be given by any such justices of the peace, in pursuance of this act, he, she or they shall have the same right and benefit of appeal as is allowed and given in the seventeenth section of the above recited act, on giving the like security as therein and thereby it is provided and required.

Persons aggrieved may appeal.

An Act for granting to His Majesty a Duty on Licensing Billiard Tables for hire, and for regulating the same.

41 Geo. III.
Cap. 13.

WHEREAS much inconvenience has arisen from the increased number of billiard tables throughout this Province; And whereas it is essential to the happiness and welfare of all His Majesty's subjects therein,

Preamble.

After 30th of April, 1802, persons who keep billiard tables to take out a licence.

Penalty.

Application of the penalty.

Governor empowered to grant licences.

* Fifth. See French version.

No licence to be granted unless recognizance be entered into.

No apprentice, &c., to be allowed to play for money.

Recognizance when to remain.

To be enforced in certain cases.

£13 10s. to be taken for a licence.

that the licensing of billiard tables, in future, for the more effectual prevention of the evils and inconveniences arising therefrom, be considered an object of legislative interference :—May it therefore please Your Majesty, that it may be enacted, and be it enacted, &c., that from and after the thirtieth day of April, one thousand eight hundred and two, no person or persons for his, her or their gain and lucre, shall erect, set up, continue to keep or maintain, any billiard table in this Province, without a licence for that purpose first had and obtained, in the manner herein-after directed ; and any person or persons who shall presume to erect, set up, continue to keep and maintain, for his, her or their lucre or gain, any billiard table, without being licensed, as aforesaid, and who shall thereof be convicted before any justice of the court of King's bench, or provincial judge in circuit, or any two justices of the peace for the district where such offence shall happen, upon the oath of one credible witness, or upon the view of such justice, judge or justices, or on the confession of the party or parties, shall forfeit and pay the sum of twenty-five pounds, current money of this Province, with costs of suit, to be levied by distress and sale of the offender's goods and effects, by warrant under the hand and seal of the justice, judge or justices, before whom he shall or may have been convicted ; which said forfeiture, when recovered, shall go to and be applied one moiety to His Majesty, His Heirs and Successors, for and towards the support of the government of this Province and the contingent charges thereof, and the other moiety to the informer or person who shall sue or prosecute for the same.

II. And be it further enacted, &c., that the licences hereinbefore mentioned shall be granted by the Governor, Lieutenant-Governor, or person administering the government for the time being, subject to the same regulations and charge to the secretary of the Province, his agent or deputy, as is prescribed by the act of the thirty-seventh* of His present Majesty, respecting hawkers and pedlars : Provided always, that no such licence shall be given to any person or persons, unless he, she or they enter into a recognizance before His Majesty's justices of the peace, in court of quarter sessions within their districts, respectively, to our Sovereign Lord the King, His Heirs and Successors, with two sufficient sureties (being householders,) jointly and severally, in the sum of fifty pounds, current money of this Province, on the special condition that the person or persons obtaining the same shall not, during the continuance of the said licence, knowingly suffer any apprentice, school-boy or servant to play at the said billiard table, and shall not knowingly suffer any person or persons whatever to play or game at the same for money ; which recognizance so taken shall be and remain with the clerk of the peace of the district where the same may be entered into, to be by him prosecuted in case the said conditions shall not be strictly complied with, or in case of forfeiture of the said recognizance ; which said forfeiture when recovered, after deducting the reasonable costs of such prosecution, shall go and be applied, one moiety to His Majesty, His Heirs and Successors, for and towards the government of this Province and the contingent charges thereof, and the other moiety to the informer or the person who shall sue or prosecute for the same.

III. And be it further enacted, &c., that previous to the granting of any such licence, the said secretary of the Province, his deputy or agent, shall exact and demand for every such billiard table, so as aforesaid to be by them licensed, the sum of twelve pounds, ten shillings, current money of this Pro-

vince, to be paid to the said secretary of the Province, his deputy or agent, where such licence may be granted, to be by him remitted to the receiver general of this Province, to be applied to the use of His Majesty, His Heirs and Successors, in the manner and for the purposes hereinbefore expressed: Provided always, that no such licence shall be granted by the said secretary of the Province, his deputy or agent, to any person or persons, until he or they shall produce a certificate from the clerk of the peace, that the recognizance required by this act hath been duly entered into.

No licence to be granted unless a certificate is produced.

IV. And be it further enacted, &c., that no person or persons shall set up, continue to keep or maintain for their lucre and gain, any such billiard table, after the expiration of such his, her or their licence, without a renewal of the same, ten days at least before the expiration thereof, shall* and are hereby made subject to the same pains and penalties in this act expressed, as if he, she or they had never obtained such licence; any thing herein to the contrary notwithstanding.

Penalty on persons keeping a billiard table without a licence.

* Sic. But the French reads correctly.

V. And be it also further enacted, &c., that if any person or persons who shall be so as aforesaid convicted, shall not have sufficient goods and effects whereon to levy the penalties inflicted by this act, or who* shall not, upon a return of *nulla bona* to the writ of distress issued, immediately pay the said penalties and costs, or give security for payment of the same within ten days thereafter, it shall and may be lawful for the said justice or justices of the court of King's bench, or provincial judge in circuit, or justices of the peace, before whom such person or persons shall be so convicted as aforesaid, to commit such person or persons to the common gaol of the district where such offence shall be committed, there to continue and remain for any time not exceeding three months.

For want of distress, persons may be committed to the common gaol.

* Sic.

VI. Provided always and it is hereby enacted, that no suit or action shall be brought or commenced against any person or persons for any penalty or forfeiture by this act imposed, that shall not be brought within three months after the offence or offences respectively committed.

Limitation of actions.

VII. And be it further enacted, &c., that all monies arising by this act are hereby granted to His Majesty; and the due application thereof accordingly, shall be accounted for to His Majesty, through the lords commissioners of His Majesty's treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall direct.

Monies arising under this act, how applied and accounted for.

An Act to establish the manner of issuing Licences on which 7 Geo. IV.
duties are imposed by any Laws in force in this Province. Cap. 5.

WHEREAS it is expedient to establish the manner of issuing licences upon which duties are imposed by any law in force in this Province:—Be it therefore enacted, &c., that from and after the passing of this act, all licences to be granted by the Governor, Lieutenant-Governor, or person administering the government of this Province, under any law now in force in this Province imposing duties thereon, shall be issued under the seal at arms of the Governor, Lieutenant-Governor, or person administering the government of the Province for the time being, certified by such person as the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being, shall appoint to affix the same, and under the signature of the secretary of the Province, or of the person executing the office of the secretary of the Province for the time being; any law, usage or custom to the contrary in any wise notwithstanding.

Preamble.

Licences to be issued under the seal at arms of the Governor, &c. duly certified, and the signature of the secretary, &c.

Such licences to whom to be delivered, and how accounted for.

II. And be it further enacted, &c., that when such licences shall so have had the seal affixed thereto, the same shall be delivered to the secretary or person executing the duties of secretary of the Province, by the person who shall have affixed the seal, taking receipts in duplicate for the number delivered, one of which receipts shall be lodged with the inspector general of public provincial accounts.

4. SICK MARINERS, FOR THE SUPPORT OF.

6 Will. IV.
Cap. 35.

An Act to provide for the Medical Treatment of Sick Mariners. (Temporary.)

MOST GRACIOUS SOVEREIGN,

Preamble.

A duty laid on vessels for the purposes of this act.

See Tables.

Governor may pay a sum equal to that received at the port of Quebec for the marine hospital, and a sum equal to that received at Montreal for the Montreal general hospital.
Proviso.

WHEREAS it is expedient to make provision for the relief and medical treatment of sick sailors and mariners, on board vessels arriving at any port in this Province, and for that purpose it is expedient to impose a certain rate or duty payable by the masters of such vessels, for the purpose of creating a fund for defraying the expense of the medical care and attendance of such sailors and mariners:—May it therefore please Your Majesty, that it may be enacted, and be it enacted, &c., that there shall be raised, levied and collected a rate or duty, payable in the manner hereinafter prescribed by the master or person in command of every vessel arriving in either of the ports of Quebec and Montreal from any port out of the limits of this Province; and such rate or duty shall be one penny, currency, for every ton which such vessel shall measure, and shall be paid by the master or person in command of such vessel, or by some person on his behalf, to the collector or other chief officer of the customs at the port at which such vessel shall be first entered, and at the time of making such first entry, which shall contain on the face of it the measure and tonnage of such vessel; and no such entry shall be deemed to have been validly made, or to have any legal effect whatever, unless such rates or duties be so paid as aforesaid; and the monies so received shall be paid by such collector or chief officer to the receiver general of the Province, for the purposes hereinafter mentioned.

II. And be it further enacted, &c., that it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government, by warrant under his hand, to pay from time to time, as the same may be required for the purposes of this act, and out of any monies paid into the hands of the receiver general under the authority of the same, a sum equal to that received as aforesaid at the port of Quebec, to the managers or directors of the marine hospital established at Quebec, and a sum equal to that received as aforesaid at the port of Montreal, to the treasurer of the corporation of the Montreal general hospital, clear in such case of all deductions for the expence of collecting the same: Provided always, that it shall be lawful for every master or person in command of every such vessel, to send to the said marine hospital at Quebec, and to the said Montreal general hospital, at any hour of the day, (and in case of accident or emergency, at any hour of the night,) any sailor or mariner belonging to his vessel, who may be sick or who may have met with any accident requiring surgical assistance and treatment; and such sick sailor or mariner, or person so sent with a written recommendation from such master in command of such vessel, shall be gratuitously received into such hospital, and receive

therein such medical and surgical attendance and such other treatment as the case may require, during the illness of such sailor or mariner, or person so sent as aforesaid.

III. And be it further enacted, &c., that every person to whom shall be entrusted the expenditure of any portion of the monies hereby appropriated, shall make up detailed accounts of such expenditure, showing the sum advanced to the accountant, the sum actually expended, the balance, if any, remaining in his hands, and the amount of the monies hereby appropriated to the purpose for which such advance shall have been made, remaining unexpended in the hands of the receiver general; and that every such account shall be supported by vouchers, therein distinctly referred to by numbers corresponding to the numbering of the items in such account, and shall be made up to and closed on the tenth day of April and tenth day of October, in each year during which such expenditure shall be made, and shall be attested before a justice of the court of King's bench or a justice of the peace, and shall be transmitted to the officer whose duty it shall be to receive such account, within fifteen days next after the expiration of the said periods respectively.

Detailed accounts of the expenditure of the money to be made up and to be transmitted.

IV. And be it further enacted, &c., that the due application of the monies appropriated by this act, shall be accounted for to His Majesty, His Heirs or Successors, through the lords commissioners of His Majesty's Treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall direct; and that a detailed account of the expenditure of all such monies, shall be laid before the several branches of the provincial legislature, within the first fifteen days of the next session thereof.

Application of the money to be accounted for to His Majesty and the legislature.

5. TRINITY HOUSE, QUEBEC.

An Act for the better regulation of Pilots and Shipping in the Port of Quebec, and in the Harbours of Quebec and Montreal, and for improving the Navigation of the River Saint Lawrence, and for establishing a Fund for decayed Pilots, their Widows and Children.

45 Geo. III. Cap. 12.

WHEREAS the regulation of pilots and shipping in the port of Quebec and the harbours of Quebec and Montreal, and the improvement of the navigation of the river Saint Lawrence, are objects of great importance to the commerce of this Province:—Be it therefore enacted, &c., that it shall and may be lawful to and for the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being, by an instrument under the great seal of this Province, to constitute and appoint two fit and proper persons to be master and deputy master to reside in the city of Quebec, and not exceeding seven other persons, (of whom the present captain of the port of Quebec, or harbour master of Quebec as hereinafter mentioned, and the superintendent of pilots, and such persons as may hereafter be appointed to execute the duties of their offices, respectively, shall be two,) to be wardens of the trinity house of Quebec, whereof four shall reside in the city of Quebec and three in the city of Montreal,—to remove from time to time the said master, deputy master, wardens or any or either of them, and to appoint others to be the successors of such as shall be so removed, or shall die, or resign their trust:

Preamble.

See Tables.

Governor to appoint a master, deputy master and wardens of the trinity house of Quebec.

See Tables.

To be a body corporate.

Name of the corporation and corporate powers.

Authority to hold real property.

Master of the trinity to be the principal of the corporation.

But see Tables.

The place for the first meeting of the corporation how fixed.

Master &c. to fix all subsequent meetings.

May make rules and by-laws, for certain purposes.

and the said master, deputy master and wardens and their successors so constituted and appointed, shall be and they are hereby declared to be a body corporate and politic, in name and in deed, by the name of *The master, deputy master and wardens of the trinity house of Quebec*, and shall have perpetual succession and a common seal, with power to change, alter, break and make new the same, when and as often as they shall judge the same to be expedient; and they and their successors, by the same name, shall sue and be sued, implead and be impleaded, answer and be answered, in all or any court or courts of record or place of judicature within this Province, and shall be able and capable in law, to purchase, have, hold, receive, enjoy, possess and retain immovable estates, for the purpose of erecting a light-house or light-houses and beacon or beacons, and moveable property, for otherwise improving the navigation and pilotage of the river Saint Lawrence.

II. And be it further enacted, &c., that the said master of the trinity house of Quebec, so constituted and appointed as aforesaid, shall *ex officio*, be the principal of the said corporation hereby erected; and that it shall and may be lawful to and for the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being, by an instrument or instruments under his hand and seal at arms, from time to time, to nominate and appoint a person to be harbour master of Montreal, also such other officers, clerks and bailiffs as he shall judge necessary for the said corporation,—and in like manner to fix the places at Quebec and Montreal for their meetings, and the time on which the said corporation shall, at their first meeting, assemble for the execution of the trust to be reposed in them by virtue of this act; and the master, deputy master and wardens aforesaid, or any three or more of them, (of which the master or deputy master shall always be one,) being assembled at such places and times at Quebec as shall be so fixed, shall establish the after times of meeting at Quebec and at Montreal, with power at both places to adjourn the same, from time to time, and to assemble there on extra occasions, when it shall be necessary,—and being so from time to time assembled at Quebec, shall have full power and authority to make, ordain and constitute such and so many by-laws, rules and orders, not repugnant to the maritime laws of Great Britain or to the laws of this Province or the express regulations of this act, as by them or the major part of them so assembled, shall be judged expedient and necessary,—as well for the direction, conduct and government of the said corporation and of the property real and personal by them held, as for the more convenient, safe and easy navigation of the river Saint Lawrence, from the first rapid above the city of Montreal downwards, as well by the laying down and taking up of buoys and anchors, as by the erecting of light houses, beacons or land marks, the clearing of sands or rocks, or otherwise howsoever,—and also, for the amendment and improvement of the harbour of Quebec, and regulating the *cul-de-sac* and harbour of Montreal, and preventing injury thereto,—for the anchoring, riding and fastening of all ships and other vessels resorting to the said harbours of Quebec and Montreal,—and for the better regulating and ordering the same while lying in the stream or at any wharf or wharves in the said harbour of Quebec, or careening on the beach of the said harbours,—and also in respect to fire-places on board ships or vessels, and lighting and extinguishing fires therein,—as also respecting lighted candles, when such ships or vessels lay at any wharf or quay, or in the *cul-de-sac* at Quebec, or harbour of Montreal,—also, in respect to the boiling or melting of pitch, tar, turpentine

or rosin in the harbours or on the beaches of Quebec and Montreal, or *cul-de-sac* of Quebec,—and also, for the government and regulation of the pilots of the port of Quebec, of the conduct of such pilots towards their apprentices, and of such apprentices towards their masters, and for the better qualification, instruction, service and examination of such apprentices,—and the same to revoke, alter and amend, as in their opinion will most effectually promote the good purposes for which this act is intended ;—and for enforcing the execution of the said by-laws, rules and orders, the said master, deputy master and wardens or any three of them, assembled as aforesaid, are hereby further empowered, in and by such by-laws, rules and orders, to impose and lay any fine and penalty not exceeding ten pounds, currency, upon all and every persons who shall be guilty of infringing such by-laws, rules or orders, or to suspend for a time or to dismiss from office, such person or persons, if a pilot, who shall be guilty of the breach of any such by-laws, rules and orders, as by them or the majority of them, as aforesaid, shall be judged fit and reasonable : Provided always, that no such by-law, rule or order shall have any force or effect, until the same shall have been sanctioned and confirmed by the Governor, Lieutenant Governor, or person administering the government of this Province, for the time being, under his hand and seal at arms, and shall thereafter have been published in the Quebec Gazette.

No by law to have effect until sanctioned by the Governor.

IV. And be it further enacted, &c., that the said corporation may, if they or the majority of them, with the approbation of the Governor, Lieutenant-Governor, or person administering the government, shall see it necessary or conducive to the purposes of this act, and that the funds applicable thereto shall admit of the expense, to provide a decked vessel or sail-boat, not exceeding sixty tons burthen, to be employed as need be, in examining the channels and navigation of the river, in laying down or taking up of buoys, and for the superintendent of pilots to visit Bic, when the corporation or the major part thereof shall direct, to inquire into the conduct of the pilots or for other necessary purposes under this act.

A decked vessel or sail boat may be provided with the approbation of the Governor.

See Tables.

V. And be it further enacted, &c., that before the said master, deputy master or wardens shall enter upon the execution of the duties for them prescribed by this act, or any of them, they shall severally take and subscribe an oath, before one of the justices of either of the courts of King's bench, for the time being, in the words following, that is to say:—"I, A. B., do swear that I will well and truly and impartially, according to the best of my skill and understanding, execute the powers vested in me by virtue of a law of this Province, intituled, *An act, &c., (title of this act,)*" which oath so taken and subscribed, shall be filed of record, and remain deposited in the office of the prothonotary of the court of King's bench for the district where the said oath shall be administered.

Master, &c. to take an oath.

The oath.

VI. And be it further enacted, &c., that it shall and may be lawful to and for the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being, when and as often as he shall see fit, to appoint and commission by warrant or branch under his hand and seal at arms, fit and proper persons to be branch pilots, for and below the harbour of Quebec, and other fit and proper persons to be branch pilots for and above the said harbour ;—and the port of Quebec for the purposes of this act, shall be held and deemed to comprehend all that part of the river Saint Lawrence between the island of Bic and anchorage thereof, inclusive, up to the point of Saint Anne's, above the city of Montreal ; and the harbour of

Governor to appoint branch pilots.

But see Tables.

Applicants to be examined before they be appointed pilots.

Not to affect a pilot who at present holds a branch. Penalty for neglect.

Pilots hereafter to be appointed to serve a regular apprenticeship.

But see Tables.

Must speak English.

No pilot to take more than one apprentice.

Exception.

From and after the passing of this act, every branch pilot authorized to demand certain rates for pilotage.

But see Tables.

The rates.

Quebec, shall, for the like purposes, comprehend that part of the river from Saint Patrick's Hole to the river of Cape Rouge, both inclusive; and the harbour of Montreal, for the said purposes, shall comprehend that part of the said river from the bay below the current of Saint Mary's, inclusive, up to the said point of St. Anne's: Provided always, that no person shall be so appointed, until he shall have been examined (before such branch pilots, as shall see fit to attend the examination, and who may propose questions,) by and obtain a certificate from the said master, deputy master and wardens of the said trinity house of Quebec, or any three of them whereof the master, deputy master and the harbour master of Quebec or superintendent of pilots, shall be two, under their hands and the seal of the said corporation, of his having been so examined, and being found in all things duly qualified to serve as a branch pilot, for and below the harbour of Quebec, or for and above the said harbour, as the case may be: Provided also, that every pilot who at present holds a branch, shall continue to hold the same, unless he shall, by some offence committed after the passing of this act, and after conviction thereof, have forfeited such branch: And provided further, that any branch pilot neglecting to pursue the occupation of pilot for a whole season, unless prevented by sickness or unavoidable absence, shall forfeit his branch.

VII. And be it further enacted, &c., that no person shall hereafter be appointed a branch pilot for and below the harbour of Quebec, who has not *bonâ fide* served a regular apprenticeship for at least five years, and which apprenticeship shall be under indenture made and executed before a public notary, and who shall not have made two or more voyages to Europe or the West Indies, in some square rigged vessel or vessels, to be proved by the certificates of the masters or commanders of the vessels in which the said person shall have returned, and of the service of which apprenticeship he shall produce satisfactory proof on his examination to be received a branch pilot; and no person whose apprenticeship to a pilot shall commence after the passing of this act, shall, at the expiration of his apprenticeship, be appointed a branch pilot as above said, unless in addition to the said qualifications, it shall appear upon examination, that he speaks English sufficiently to give orders in that language, respecting the working of any ship or vessel that he may be employed to pilot; and any branch pilot may hereafter take one apprentice, if he sees fit, but shall have no more than one at a time: Provided always, that there shall be no obligation to discharge, in consequence of this limitation, any apprentice whose indenture shall have been executed before the passing of this act.

VIII. And be it further enacted, &c., that from and after the passing of this act, it shall be lawful for every branch pilot to ask, demand and receive of and from all and every person or persons who shall employ him to pilot any ship or vessel in the river Saint Lawrence, the rates of pilotage following, that is to say;—for a ship or vessel, from or above the island of Bic, up to the basin or harbour of Quebec, sixteen shillings, currency, for every foot of water, that such ship or vessel draws;—for a ship or vessel from the basin or harbour of Quebec to the island of Bic, or where the pilot shall be discharged in the river below Quebec, fourteen shillings, currency, for every foot of water that such ship or vessel draws;—for a ship or vessel from the basin or harbour of Quebec, to the town of Three-Rivers, and including from the town of Three-Rivers down to the basin or harbour of Quebec, if the said ship or vessel shall not exceed two hundred tons measurement,

by the register thereof, seven pounds, ten shillings, currency, in all,—if above two hundred tons, and not exceeding two hundred and fifty tons, ten pounds, currency, in all,—and if above two hundred and fifty tons, twelve pounds, ten shillings, in all ;—for a ship or vessel from the bason or harbour of Quebec to the harbour of Montreal, or to any place beyond Three-Rivers, and including from thence down to the bason or harbour of Quebec, double the rates above respectively mentioned for a ship or vessel from the bason or harbour of Quebec, to the town of Three-Rivers and from thence down ;—all which rates are hereby meant and intended to include fourteen days for the pilot to remain on board, after the arrival of the ship or vessel at the extent of her destination upwards, if he shall, by the master or commander thereof, be required to remain so long ; and if a pilot shall, at the request of the master and commander, remain longer than fourteen days, then he shall be entitled to an allowance of five shillings per day for the extra time, and in both cases, or in either case, be found in provisions as customary. *But see Tables.*

IX. Provided always, and it is further enacted, that the master, deputy master and wardens of the said corporation, or any three or more of them, shall and they are hereby authorized to fix an additional allowance to the above rates of pilotage, to be made to pilots who, after the tenth day of November or before the first day of May in any year, shall go on board ships or vessels bound to or from the harbour of Quebec, and such additional allowance to alter from time to time, as may be found proper and expedient ; and they are hereby further authorized to fix, if need be, from time to time, the rates to be allowed to pilots for removing ships or vessels from one part of the harbour of Quebec to any other part thereof, after the pilot shall have been discharged from any such ship or vessel, or after being moored in the harbour or fastened to a wharf on arrival from sea : Provided also, that when a pilot or pilots shall have piloted any ship or other vessel to Three-Rivers, or to any part above Three-Rivers, or to the harbour of Montreal, only, then and in such case he or they shall be entitled to two third parts of the rates herein respectively provided for pilotage up and down, and no more ; and for piloting any ship or other vessel, from any of the places abovementioned down to the harbour of Quebec, there shall be allowed and paid one-third of the aforesaid rates, and no more, as the case may be. *Additional pilotage in certain cases.*

X. And be it further enacted, &c., that at the expiration of five years after the passing of this act, there shall be allowed and paid to branch pilots for and below the harbour of Quebec, twelve and a half *per centum* in addition to the rates of pilotage allowed as before mentioned ; and from the period when such addition shall take place, there shall be paid by every pilot, whether for above or below Quebec, to the fund hereinafter mentioned, one shilling in the pound, instead of eight pence as hereinafter prescribed. *Pilotage on vessels up to the harbour of Montreal and thence down to Quebec.*

XI. And whereas it is extremely desirable that a fund should be provided and established, for the relief of pilots, widows and children of pilots, who may fall into decay, misery, poverty and need :—Be it therefore further enacted, &c., that a fund shall be and is hereby established, to be known by the name of *The decayed pilot fund*,—and every person who at present is a licensed or branch pilot, and also every person who shall hereafter become a branch pilot, either above or below the harbour of Quebec, shall contribute to the said fund, by paying to the clerk of the said corporation of the trinity house of Quebec, eight pence in the pound, out of every sum and sums of money which, after the first day of June next, he *After five years, twelve and a half per cent more is allowed pilots, and one shilling in the pound to be paid by each pilot to the fund.*

A fund established for the relief of pilots, their widows and children. Name of the fund.

Pilots to contribute to the fund.

But see Tables. shall receive for pilotage ; and the said master, deputy master or some of the wardens are hereby authorized and required, when any doubt shall arise as to the amount of pilotage received by a pilot, to administer to him an oath, to ascertain such amount : and the said contributions to the said fund, shall be paid on or before the first day of July, and on or before the first day of October, in every year ; and the said fund is hereby vested in the said corporation for that purpose, and shall be under the management of the said corporation, who are hereby authorized and required to grant such relief out of the same, to distressed and decayed pilots, and the widows and children of pilots, as the said corporation or a majority thereof shall see just and proper ; and the monies which, at the end of each year, shall not be distributed for the said purpose, shall be vested in securities bearing interest, upon immoveable property, according to the best of the judgment of the said corporation, or a majority thereof ; and an account of the state of the said fund shall annually be laid before the Governor, Lieutenant-Governor or person administering the government, and the said corporation may be brought to account for the monies of the said fund in the court of King's bench for the district of Quebec, at the suit of His Majesty's attorney general for this Province ; and if any pilot liable to contribute to such fund, shall, after being thereunto required by the said corporation, refuse or neglect to pay to the clerk of the corporation the above said poundage, for the space of three months following the periods when such requisition shall be so made, respectively, every such pilot so neglecting or refusing, upon conviction thereof before any three wardens, shall forfeit and pay for the use of the said fund, a sum not exceeding two pounds, currency, and upon a second conviction for a like offence, shall be suspended during three months, and if a third time convicted of a like offence, shall forfeit his branch as a pilot, and be rendered incapable of afterwards receiving, or his widow or children, any benefit or assistance from the said fund.

Management of the fund regulated.

Account to be rendered.

But see Tables.

Penalty.

Pilots entitled to an additional encouragement in certain cases.

XII. And for the encouragement of pilots, who shall distinguish themselves by their activity and readiness, to aid and assist any ship or vessel in distress and in want of a pilot, in the river St. Lawrence :—Be it further enacted, &c., that the master or owner of any ship or vessel in distress and in want of a pilot, in the river St. Lawrence, shall pay unto any pilot who shall have exerted himself for the relief or preservation of such ship or vessel, such sum, for extra services, as the said master or owner and pilot may agree upon ; and in case no such agreement shall be made by the parties aforesaid, the master, deputy master and wardens of the trinity house of Quebec, or any two or more of them, (whereof the said master or deputy master shall be one,) are hereby empowered, upon the petition of such master, owner or pilot, or either of them, to ascertain and declare, by an award or order under the hands and seals of them or any two of them, as aforesaid, the sum which shall be paid by such master or owner to such pilot, for such extra service as aforesaid and such sum so as aforesaid ascertained and declared, shall be levied in manner hereinafter directed.

Masters of vessels refusing to receive a branch pilot, to pay half pilotage.

XIII. And be it further enacted, &c., that if the master of any ship or vessel, coming to the harbour of Quebec, not having on board a branch pilot, shall refuse to receive on board and employ any branch pilot, who shall offer to go on board and serve as such, in the river St. Lawrence, the master of such vessel shall pay to such branch pilot, who shall have so offered himself, half pilotage to the harbour of Quebec, from the place at which such pilot shall have so offered : Provided always, that no master of

any coasting vessel or river craft, when employed within any part of the Not to extend
gulf or river of St. Lawrence, or when bound to or from the Labrador fish- to the master
eries, shall be obliged to take or receive on board, a pilot; any thing herein of any coasting
contained to the contrary notwithstanding. vessel, &c.

XV. And be it further enacted, &c., that if any person not being a branch Penalty on
pilot as aforesaid, shall conduct or pilot any ship or other vessel, for hire or persons other
otherwise, going into or out of the port of Quebec, or to or from any part than branch
within the limits thereof, such person, for every such offence, shall forfeit pilots, conduct-
and pay the sum of ten pounds, currency, to be recovered with costs by any ing or piloting
person who shall sue for the same, before the said master, deputy master vessels.
and wardens or any three of them,—one moiety of which forfeiture and for- See Tables.
feitures shall go to the master, deputy master or wardens of the said trinity
house of Quebec, and be applied in manner hereinafter directed, and the other
moiety to the person who shall sue for the same; and if any branch pilot,
during his being suspended or deprived of his branch, under or by virtue of
this act, shall conduct or pilot any ship or other vessel, for hire or otherwise,
going into or out of the port of Quebec, or to or from any part thereof, such
pilot shall, for every such offence, forfeit and pay the like sum of ten pounds,
currency, to be recovered with costs by any person who shall sue for the
same, in manner as aforesaid,—one moiety of which said forfeiture and for-
feitures shall go to the master, deputy master and wardens of the said
trinity house of Quebec, and be applied in manner hereinafter directed, and
the other moiety to the person who shall so sue for the same.

XVI. And be it further enacted, &c., that in case of the loss of any ship Penalty on
or other vessel, through the fault of the branch pilot having charge of the branch pilots
same, it shall and may be lawful to and for the said master, deputy master for neglect of
and wardens of the said trinity house of Quebec, or any three or more of duty.
them, upon complaint or information of the master or owner of such ship See Tables.
or vessel, or other person whosoever, to declare by and with the approbation
of the Governor, Lieutenant-Governor, or person administering the govern-
ment of this Province for the time being, such approbation signified by war-
rant under his hand and seal, addressed to the said master, deputy master
and wardens, that such pilot hath forfeited his branch, and such pilot shall
be deprived of his branch accordingly.

XVII. And be it further enacted, &c., that a list of all branch pilots of List of pilots to
the port of Quebec, specifying their names, and whether they have branches be delivered
to serve as pilots above or below the bason and harbour of Quebec, with their annually by
ages and places of residence, shall annually be delivered in the month of the master.
March in every year, signed by the master or deputy master, and by one or &c. of the tri-
more of the wardens of the said trinity house of Quebec, to the collector of nity house, to
the customs of the said port of Quebec, which list by the said collector shall the collector of
be put up in some public place of the custom house of the said port of Quebec. See Tables.
Quebec.

XVIII. And be it further enacted, &c., that it shall be lawful for the Masters, &c.
master, deputy master and wardens of the trinity house of Quebec, or any of the trinity
three or more of them, to hear and determine all matters of dispute between house empow-
any pilot and any master of a ship or vessel, respecting any sums of money ered to hear
claimed for pilotage or extra or other services,—and also all matters of and determine
complaint against pilots, for neglect of or misbehaviour in any part of the duty all matters of
required of them by this act, or by the by-laws, rules, regulations or dispute respect-
orders of them the said master, deputy master and wardens, enacted and ing pilots, &c.
made by virtue of this act,—as well as to hear and determine all offences But see Tables.

committed against this act, or against any such by-law, rule, regulation or order, by any person or persons whatsoever, for which especial provision is not herein made for trial in other jurisdictions; and they, the said master, deputy master and wardens, or any three of them, are hereby required and empowered, upon information, to summon the party accused, or of whom money shall be claimed, and the witnesses to be heard as well in his favor as against him, by the bailiff of the said corporation, or the marshal of the court of vice admiralty, or other officer, who shall or may be especially appointed for such service, in manner hereinbefore directed,—and upon the appearance or contempt of the party accused or complained against, in not appearing, upon proof of service of such summons to proceed to the examination of the witness or witnesses upon oath and to give judgment accordingly: and when the party accused or complained against, shall be convicted of such offence, or if judgment be given upon such claim, on proof or by confession, to issue a warrant or warrants, under the hands and seals of them the said master, deputy master and wardens, or any of them, empowering and requiring the said bailiff, or the said marshal or the said officer, of the goods and chattels belonging to the party convicted, to levy the amount of any such judgment or any such pecuniary fine imposed by such conviction, with the costs of suit, and to cause sale thereof to be made,—which warrant shall authorise such bailiff or such marshal or such officer, as aforesaid, to go on board of any ship or vessel, being in the stream or elsewhere in any part of the port of Quebec, and there to execute, by *saisie* and sale of all goods and chattels which shall there be found appertaining to the person or persons against whom such warrant shall thus be issued,—and also, so to go on board, on the return of *nulla bona*, to execute the warrants as herein-after mentioned:—And when the goods of such person so convicted, or against whom a judgment shall be given, shall not be found, the said master, deputy master and wardens or any three of them, on a return of *nulla bona* to them made by such bailiff, marshal or other officer as aforesaid, shall and may, by warrant under the hands and seals of them or any three of them, addressed to the bailiff, marshal or officer so as aforesaid, may and shall * cause to be apprehended and commit the person against whom the judgment shall have been so given, or the person so convicted, to the common gaol of the district in which such person shall be found, there to remain until the penalty imposed by such conviction, or the amount of the the judgment given, with the costs in either case, shall be paid or satisfied; Provided always, that no person so committed shall be detained in prison for a longer period than one calendar month.

* Sic.

Persons committed not to be detained longer than one month.

Harbour master and superintendent of pilots not to sit judicially upon the trial of offenders.

Masters of ships may appeal in certain cases.
See Tables.

XIX. Provided also, and it is hereby enacted, that although the harbour master of Quebec and superintendent of pilots, and their successors in office, are constituted two of the wardens of the said trinity house, yet being herein-after constituted prosecutors of offenders against this act, and against the by-laws, rules, orders and regulations to be made under the authority thereof, neither of them shall sit judicially upon the trial of any such offenders; Provided further, that the master of any ship or vessel, or any person or persons against whom a judgment shall be given as aforesaid, for a sum exceeding twenty pounds, currency, upon giving security to the person or persons in whose favour such judgment shall be so rendered, to the satisfaction of the master and wardens who rendered such judgment, for the amount thereof, with costs, shall be entitled to an appeal to the court of King's bench of the district in which such judgment shall have been so

given as aforesaid, and the said court of King's bench, upon the hearing of such appeal, shall give such judgment as in its consideration shall be just and right, with costs; and the judgment of such court of King's bench shall be final, except in cases exceeding the sum of five hundred pounds, sterling, in which cases, an appeal shall lie in the ordinary course of law, to the provincial court of appeals, and from thence to the court of His Majesty in his privy council: Provided also, that nothing in this act contained shall extend or be construed to extend to authorize the going on board of any of His Majesty's ships or vessels by him duly commissioned, to serve any summons or to execute any warrant or *saisie* from the said corporation: Provided also, that the proceedings and evidence had before the said master, deputy master and wardens, where their judgment shall exceed the sum of twenty pounds, shall be recorded and preserved of record, and also, in all cases where the same shall extend to the dismissal of a pilot.

No summons to be served on board a King's ship

Proceedings, &c. to be recorded in certain cases.

XX. And be it further enacted, &c., that the said master, deputy master and wardens, when sitting judicially upon any complaint cognizable by them or any number of them, under this act, are and each of them is hereby authorized and empowered to administer an oath unto the witness or witnesses which shall be produced on either side upon the trial of any such complaints; and every person who shall knowingly and wilfully swear falsely, in any case where an oath is by this act authorized to be administered, shall suffer the pains and penalties by law imposed for wilful and corrupt perjury.

Master, &c. of the trinity house may administer oaths.

Penalty for false swearing.

XXI. And be it further enacted, &c., that all matters of complaint and dispute by and between pilots and their apprentices, shall be heard and finally decided by the master, deputy master and wardens of the trinity house of Quebec, or any three of them; and to this end all power and authority relative thereto, now vested in His Majesty's justices of the peace and in the courts of quarter sessions of the several districts of this Province, shall be and the same and every part thereof, relative to pilots and their apprentices, are and is hereby vested in the said master, deputy master and wardens of the said trinity house; and it shall and may be lawful to and for the master, deputy master and wardens of the said trinity house, from time to time, to call before them and to examine any apprentice to any pilot as to his progress in the calling of a pilot; and if upon the examination of any apprentice before the master, deputy master and wardens of the said trinity house, or any three of them, (whereof the harbour master of Quebec or the superintendent of pilots shall be one,) it shall appear to them, that the master of such apprentice shall have neglected his instruction, it shall and may be lawful to and for the said master, deputy master and wardens of the said trinity house, or any three of them, as aforesaid, to inflict and impose upon such master, guilty of such neglect, such fine as they shall see fit, not exceeding ten pounds, currency; but if upon such examination it shall appear to the said master, deputy master and wardens, that such apprentice is not duly qualified for the exercise of the calling of a pilot, from his own neglect or fault, it shall and may be lawful to and for the said master, deputy master and wardens as aforesaid, to order the said apprentice to serve as an apprentice, such further time, not exceeding two years in addition to the period of service by this act required, as they, the said master, deputy master and wardens or any three of them, as aforesaid, shall think necessary for the instruction and sufficient qualification of the said apprentice for the exercise of the calling of a pilot.

Master, &c. of the trinity house to decide disputes between pilots and their apprentices.

See Tables.

To examine apprentices.

Captain of the port to be called harbour master of Quebec.

His duty.

See Tables.

Duties of the harbour master and superintendent of pilots.

They shall take an oath.

The oath.

Oath to be deposited of record.

Harbour master to select by-laws respecting pilots. And to deliver a copy to the master, &c. of vessels arriving at Quebec.

His fee.

But see Tables.

Duties to be paid on vessels for the purposes of the trinity house and of this act.

XXII. And be it further enacted, &c., that the captain of the port of Quebec, shall, from henceforth, be called the harbour master of Quebec; and that it shall be the duty of the said harbour master to superintend and enforce the execution of this act, or any other act which shall relate to the harbour of Quebec, and to prosecute offenders against the same, and against all by-laws, rules, orders and regulations enacted by the said master, deputy master and wardens of the said trinity house, and approved as hereinbefore mentioned, for the amendment and improvement of the harbour of Quebec, for the anchoring, riding and fastening of all ships and other vessels resorting to the said harbour of Quebec, and for the better regulating and ordering the same while lying in the stream, or at any wharf or wharves, in the said harbour of Quebec, or in the *cul-de-sac*, or careening on the beach of the said harbour: and the harbour master of Montreal shall, in like manner, superintend and enforce whatever shall relate to the harbour thereof, or the vessels therein: and the superintendent of pilots shall superintend and enforce what relates to pilots and their apprentices and prosecute offenders therein: and the said harbour masters and superintendent of pilots, before entering upon the duties of their offices, shall each take and subscribe an oath before one of the judges of the court of King's bench, in the following words, that is to say:—"I, A. B., do swear that I will truly and impartially, to the best of my skill and understanding, execute the powers vested in me by a law of this Province, intituled, *An act, &c., (title of this act,)*" which oath so taken and subscribed, shall be filed of record, and remain deposited in the office of the prothonotary of the said court of King's bench.

XXIII. And be it further enacted, &c., that the harbour master of Quebec, shall select all the laws, by-laws and regulations concerning pilots and the navigation of the river Saint Lawrence below Montreal, or expressive of the duties of masters of vessels in the harbours of Quebec and Montreal, and shall deliver a copy of the same, printed or written, signed by him, to every master or commander of a ship or vessel on his arrival in the harbour of Quebec,—for which copy, the said harbour master shall receive from every such master or commander, the sum of seven shillings and six pence, currency, and no more.

XXIV. And be it further enacted, &c., that it shall be lawful for the naval officer of the port of Quebec, and he is hereby authorized and required, before clearing any ship or vessel from his office, outwards, to ask, demand and receive of and from the master or commander of every such ship or vessel, the additional sum of two shillings and six pence, currency, per foot, for every foot for which the said master or commander is bound by law to pay to the person or persons piloting the same, between the island of Bic up to the bason or harbour of Quebec, and also an additional sum of two shillings and six pence, currency, per foot, for every foot for which the said master or commander is bound, by law, to pay to the person or persons piloting the same from the bason or harbour of Quebec to the island of Bic: and also, to ask, demand and receive from the master or commander of every such ship or vessel as shall pass the bason of Quebec for the town of Three-Rivers, or upwards, the further sum of two pounds, currency, if the said ship or vessel shall be, by the register thereof, one hundred tons measurement, and not exceed one hundred and fifty tons,—of three pounds, currency, if the said vessel shall be above one hundred and fifty tons, and not exceed two hundred tons,—of four pounds, currency, if the said vessel shall be above two hundred tons, and not exceed two hundred and fifty

But see Tables.

tons,—and of five pounds, currency, if the said vessel shall exceed the measurement of two hundred and fifty tons : and all sums so received, shall be paid, quarterly, by the said naval officer to His Majesty's receiver general of this Province, and shall be applied, as well as the monies already in his hands collected from the masters and commanders of ships and vessels for similar purposes, by the said corporation of the trinity house of Quebec, for improving the navigation of the river Saint Lawrence, from the first rapid above the city of Montreal, downwards, and for the other purposes authorised by this act, under the warrants to be from time to time issued by the Governor, Lieutenant-Governor or person administering the government of this Province, directed to the said receiver general.

How to be paid over and applied.

XVI. And be it further enacted, &c., that all fines and penalties under this act, recovered from branch pilots, shall be paid to the clerk of the said corporation, and compose a part of the decayed pilots' fund herein established, and by the said corporation shall be applied to the purposes of the said fund, as by this act are authorised and directed, and no other.

Fines recovered from branch pilots to form part of the fund for decayed pilots. See Tables.

XVII. And be it further enacted, &c., that nothing herein contained, shall or be construed to affect in any manner the rights of His Majesty, His Heirs or Successors, or of any person or persons, or of any body corporate or politic, those only excepted which are mentioned in the preamble of this act.

Saving of His Majesty's rights and of others.

XVIII. And be it further enacted, &c., that this act shall be deemed and taken to be a public act, and, as such, shall be noticed by all judges, justices and other persons whomsoever, without specially pleading the same.

Public act.

An Act to amend an act passed in the forty-fifth year of the Reign of His present Majesty, intituled, *An Act for the better regulation of Pilots and Shipping in the Port of Quebec, and in the Harbours of Quebec and Montreal, and for improving the Navigation of the River Saint Lawrence, and for establishing a Fund for decayed Pilots, their Widows and Children.*

47 Geo. III. Cap. 10.

WHEREAS, by an act passed in the forty-fifth year of the reign of His present Majesty, intituled, *An Act, &c.*, (45 Geo. 3. Cap. 12.) a certain fund was established for the relief of decayed pilots, their widows and children, to be known by the name of the decayed pilot fund, and to which fund the pilots were obliged to contribute, according to the rates and in the manner therein mentioned ; And whereas the mode prescribed for enforcing the payment of the said contribution, has by experience been found expensive and ineffectual, and it is desirable that more certain and efficient means be provided for assuring the regular payment thereof :—Be it therefore enacted, &c., that from and after the passing of this act, the payment in the first instance to the clerk of the corporation of the trinity house of Quebec, of the contribution by branch pilots to the said decayed pilot fund, of eight pence in the pound for a certain period and of one shilling in the pound hereafter, out of the pilotage money, shall be discontinued, and in lieu thereof, it shall be lawful for the naval officer of the port of Quebec, and he is hereby authorized and required, before clearing any ship or vessel from his office outwards, to ask, demand and receive from the master or commander of every such ship or vessel, over and above the monies now by the said naval officer receivable under the abovesaid act, a further sum of eight pence

Preamble.

Act 45 Geo. 3. Cap. 12, cited.

See Tables.

Naval officer to receive from the master of any vessel, a sum of money out of the pilotage, before such vessel shall be cleared out.

in the pound, during the term of five years from the passing of the above-said act, and of one shilling in the pound after the expiration of the said term, out of every sum and sums of money which the pilot of such ship or vessel has received, or is entitled to receive, for the pilotage thereof, from the said master or commander, as well for the preceding passage from Bic to or above Quebec, as for the passage from or above Quebec to Bic, as the case may be.

Masters, &c.
of vessels au-
thorised to stop
such sum out of
the pilotage.

II. And be it further enacted, &c., that the master or commander of every ship or vessel (not belonging to His Majesty) is hereby authorized and required to stop and retain eight pence in the pound during the term abovesaid, and one shilling in the pound thereafter, out of every sum and sums of money accruing and payable for the pilotage of the ship or vessel by him commanded, as well for the passage of the same from Bic to or above Quebec, as for the passage from or above Quebec to Bic; and every poundage so required to be stopped and retained, shall, by every such master or commander, be paid over to the naval officer of the port of Quebec, before that the ship or vessel by him commanded shall be cleared outwards; and it shall be the duty of the harbour master of Quebec to give or cause to be given notice to the master or commander of every such ship or vessel which shall hereafter arrive at Quebec, that it is incumbent upon him to make such stoppage and retention of poundage upon pilotage: Provided always, that the poundage upon the pilotage of ships or vessels belonging to His Majesty, shall still continue to be paid and be payable to the clerk of the abovesaid corporation, in the manner and form prescribed by the above-re-cited act: And provided further, that the right of action for recovery of arrears of poundage which have already accrued and are become due, shall continue the same as if this act had not been made.

Of which har-
bour master to
give notice.
Poundage on
the pilotage of
vessels belong-
ing to His
Majesty.
Proviso.

Proviso.

Naval officer
to pay over
quarterly the
money by him
received Less
his fees.

But see Tables.

III. And be it further enacted, &c., that all sums of money received as abovesaid by the said naval officer for the said decayed pilot fund, shall by him be paid quarterly (first deducting and retaining therefrom for his trouble in receiving and paying the same, one shilling in the pound,) to the treasurer of the said corporation of the trinity house of Quebec, to be applied in conformity to the provisions in the aforementioned act respecting such monies.

51 Geo. III.
Cap. 12.

An Act to amend an Act passed in the forty-fifth year of His Majesty's Reign, intituled, *An Act for the better regulation of Pilots and Shipping in the Port of Quebec and in the Harbours of Quebec and Montreal, and for improving the Navigation of the River Saint Lawrence, and for establishing a Fund for decayed Pilots, their Widows and Children.*

Preamble.
Act 45 Geo. 3.
Cap. 12, cited.
See Tables.

When any
branch pilot,
&c. is con-
demned by
judgment for
a penalty, the
trinity house
may recover
the same out

WHEREAS experience has shewn that the provisions of the act passed in the forty-fifth year of His Majesty's reign, intituled, *An act, &c. (45 Geo. 3. cap. 12.)* are inadequate to the objects for which the said act was passed, and that it is necessary to amend the same:—Be it therefore enacted, &c., that from and after the passing of this act, when any branch pilot, or other person not being a branch pilot and having by necessity conducted any vessel arriving at or departing from the port of Quebec, shall have been condemned by judgment given by the trinity house to any of the fines and penalties imposed by virtue of the act of the forty-fifth year of His Majesty's reign, chapter twelfth, or by virtue and under the authority of this act, it shall and may be lawful for the corporation of the trinity

house to arrest or attach in the hands of, and the same to recover from the master of any ship or vessel, or in the hands of any other person or persons to whom the said ship or vessel may be consigned, the sum of money which may be due and payable by them to any branch pilot or person having conducted any vessel as aforesaid, or the sum which shall have been agreed upon to be paid to either of them, or such part of the sum as shall be necessary to satisfy the said judgment with costs; and the said captain or master, or the consignee, shall be held to pay the amount of such arrest or attachment to the treasurer of the said corporation, and shall be discharged of as much towards such pilot or person having conducted such vessel: *Provided* always, that such pilot or person having so conducted a vessel and being interested in the arrest or attachment allowed by this act, shall be served with a summons to appear before the said corporation of the trinity house, there to hear the same determined and ordered as by law directed; and that the surplus which may remain in the hands of the said treasurer of the corporation of the trinity house, after deducting the amount of the judgment and costs above mentioned, shall be immediately returned and paid to such pilot or person having conducted such vessel as aforesaid.

of the monies due to him by the master of any vessel.

See Tables.

Proviso.

Pilot to be summoned before the corporation.

II. *Provided* always and be it further enacted, &c., that an order under the hand and seal of the said corporation of the trinity house, attested by the registrar or clerk thereof, a certified copy of which shall be left with the master or captain of any ship or vessel or to the consignee thereof, requiring him or them to retain the pilotage due or such part of the sum of money promised or agreed upon to be paid as aforesaid to such pilot or person having so conducted a vessel as aforesaid, shall be sufficient to arrest and attach in his or their hands as by this act directed, and to authorize and oblige him or them to retain the same until further order from the said corporation: *Provided* also, that if the said captain or master of any ship or vessel or consignee thereof, shall, after having received such order as aforesaid, pay the sum of money so in his hands as aforesaid, to such pilot or person having so conducted any ship or vessel, such captain or master or consignee, shall be liable to pay to the treasurer of the said corporation, the amount of such fines or penalties which such pilots, or persons having so conducted any ship or vessel, shall have been condemned to pay.

Masters of ships, &c. refusing to pay such monies upon the order of the trinity house, to be liable to pay the amount of the fine or penalty.

Proviso.

Sect. III. empowered the Governor, during five years from the passing of this act, to appoint fifteen qualified sea-faring men as pilots, without a previous apprenticeship.

IV. *Provided* always, and be it further enacted, that all and every pilot who shall receive a licence or branch by virtue and under the authority of the present act, without having previously served a regular apprenticeship of five years, as is provided by the seventh clause of the act of the forty-fifth year of His Majesty George the Third, chapter twelfth, shall not take nor engage any apprentice; and that every indenture that shall be made by any such pilot as above said with any person to serve them as an apprentice, shall be null, and have no effect in law to entitle such an apprentice to obtain a licence or branch.

Pilots not having served an apprenticeship, not to take apprentices.

V. *Provided* always, and be it further enacted, &c., that all and every person who shall receive a licence to act as a pilot, by virtue of and under the authority of the present act, without having served a regular apprenticeship in the manner provided by the seventh clause of the said act of the forty-fifth year of His Majesty George the Third, chapter twelfth, shall contribute to the decayed pilot fund established by the said act; but they them-

Such pilots to contribute to the pilot fund.

Proviso.

selves, their widows nor children, shall not receive any aid from the said fund till the expiration of five years, to be computed from the day of the date of their licence or branch.

Other pilots
may take two
apprentices.

VI. And be it further enacted, &c., that each and every pilot, (those hereinbefore mentioned excepted,) shall be at liberty hereafter to take two apprentices and no more; and they shall be held to enregister at the trinity house of Quebec the name of each and every apprentice which they now have or may hereafter take, and shall further enregister the date of every indenture between such pilot and such apprentice, and the name of the notary before whom the same shall have been made, within three months from the passing of this act, for every indenture already made, and in three months from the date of every such indenture hereafter to be made.

But see Tables.

Pilots board-
ing vessels at
or above cer-
tain points, al-
lowed certain
rates, thence
to Quebec.

VIII. Whereas it has been the practice of several pilots to cruise for and board ships arriving from sea, above the rendezvous appointed by law, and in some instances within a few miles of the harbour of Quebec, for which service they consider themselves entitled by law to receive and in some instances have claimed full pilotage:—Be it further enacted, &c., that any branch pilot who may board a ship or vessel from sea at or above the anchorage of the Brandy Pots at Hare Island, and shall conduct such ship or vessel to Quebec, such pilot shall be entitled to and receive two-thirds of the rate of pilotage allowed by law from the Island of Bic to Quebec,—and if above the point of Saint Roc, to one-third of the said rate of pilotage,—and if at or above the Pointe-aux-Pins on the Isle-aux-Grues and below Patrick's Hole, to one-fourth of the said rate of pilotage,—and at and above Patrick's Hole, to the rates already established by law for shifting a vessel from one place to another in the harbour of Quebec.

The rates.

Qualification
for examina-
tion as a pilot
for and above
Quebec.

IX. And be it further enacted, &c., that from and after the passing of this act, no person shall present himself and be admitted to undergo an examination to obtain a licence and to act as pilot for and above the harbour of Quebec, unless he shall have been constantly employed in the river navigation during five years between Quebec and Montreal, and that he proves the same at such examination in a satisfactory manner, by certificates from two or more persons, which said certificates shall be duly testified by the oath of the persons giving the same, if required by the corporation of the trinity house, or by any of the pilots present at such examination.

See Tables.

Pilots allowed
certain rates
between Que-
bec and Mont-
real.

X. And be it further enacted, &c., that from and after the passing of this act, the pilots may demand for the pilotage of any vessel between Quebec and Montreal, the rates following, that is to say:—From the harbour of Quebec to Portneuf, on the north side of the river Saint Lawrence, and the opposite side of the said river, or to any other place above the harbour of Quebec and below Portneuf, for a ship or vessel not exceeding two hundred tons measurement by the register thereof, upwards, four pounds, current money of this Province, and downwards, two pounds ten shillings, like money,—if above two hundred tons and not exceeding two hundred and fifty tons, upwards, five pounds, like money, and downwards three pounds ten shillings, like money,—and if above two hundred and fifty tons, upwards, six pounds like money, and downwards, four pounds like money; from the harbour of Quebec to the town of Three-Rivers, and the opposite side of the said river Saint Lawrence, or any other place above Portneuf and below the said town of Three-Rivers, for a ship or vessel not exceeding two hundred tons measurement by register thereof, upwards, six pounds like

The rates.

money, and downwards, four pounds like money,—and if above two hundred tons and not exceeding two hundred and fifty tons, upwards, seven pounds like money, and downwards, four pounds ten shillings like money,—and if above two hundred and fifty tons, upwards, eight pounds like money, and downwards, five pounds ten shillings like money;—from the harbour of Quebec to the port of Montreal and to the opposite side of the river Saint Lawrence or any other place above the town of Three-Rivers and below the port of Montreal, for a ship or vessel not exceeding two hundred tons measurement by the register thereof, upwards, eleven pounds like money, and downwards, seven pounds ten shillings like money,—if above two hundred tons and not exceeding two hundred and fifty tons, upwards, thirteen pounds like money, and downwards eight pounds fifteen shillings like money,—and if above two hundred and fifty tons, upwards, sixteen pounds like money, and downwards, ten pounds fifteen shillings like money: Provided always, that every pilot shall be at liberty to leave the ship or vessel which he shall have so piloted, forty-eight hours after the arrival of such ship or vessel at the place of her destination. Proviso.

II. And whereas doubts have arisen of the power invested by law in the corporation of the trinity house to regulate the harbour of the *cul-de-sac*, in the lower town of Quebec, in such way and manner as appears to them necessary to enlarge the utility thereof to the shipping from sea and vessels trading in the river Saint Lawrence, and to other objects connected with the commerce and navigation of the Province :—Be it further enacted, &c., that the property of His Majesty in the lower town of Quebec, known by the name of the harbour of the *cul-de-sac*, covered or uncovered by water at flood tide, and all rights and appendages belonging and appertaining to the same, shall be and they are hereby vested in the corporation of the trinity house of Quebec; and it shall be lawful for the said corporation, who are hereby authorized and required from time to time to make, ordain and constitute all such by-laws, rules and regulations as they shall see necessary for improving the said harbour of the *cul-de-sac*, by removing and preventing encroachments and encumbrances, for fixing, levying and raising wharfares, dock-dues, rent or other revenue to be paid by any person or persons entering the same with ships or vessels or otherwise, for the purposes of loading, unloading, repairs, wintering or any other purpose, and for erecting wharves and buildings and renting or leasing the same, and in all cases to exercise the right of property over the said harbour of the *cul-de-sac*, first obtaining the sanction and consent of the Governor, Lieutenant-Governor, or person administering the government of this Province, and duly publishing in the English and French languages, in the Quebec Gazette, such by-laws, rules and regulations, as required of the said corporation by law in other cases: Provided always, that the wharfage and dock dues on such vessels as are employed in the fisheries in the gulf and river Saint Lawrence and in the trade of the said river only, including such rivers as run into the same, from Cap Chat upwards to the harbour of Montreal, inclusively, shall not exceed four pence, current money of this Province per ton register measurement of the vessel, per annum, for loading and wintering in the said harbour: Provided also, that such regulations which shall hereafter be made, and the powers by this clause given to the trinity house, shall not extend or be understood to extend to give any power to the said trinity house, to dispossess or in any wise molest any individual actually in possession of any wharf or wharves upon and along Cul-de-sac vested in the trinity house.

See Tables.

Corporation empowered to make by-laws, touching the cul-de-sac.

Wharfage, &c. on certain vessels not to exceed certain rates.

Trinity house not to divest individuals of any wharf on the north side of the cul-de-sac.

the north side of the said *cul-de-sac*, and of the use thereof; and that it shall not be lawful for the said corporation of the trinity house to erect or cause to be erected any wharf or other work or building in such manner as to deprive, either in whole or in part, any person or persons so in possession as aforesaid, of the advantages, revenues and profits which they may derive from their said wharves or buildings.

Cul-de-sac
not to be reduced in its extent or vessels prevented from entering it.

XII. And be it further enacted, &c., that nothing in this act contained shall in any manner go to empower the said corporation of the trinity house, by any by-laws, rules or regulations, buildings or erections, to reduce the present extent of the said *cul-de-sac*, or to restrain the liberty of entering the same with ships or vessels of every description, or preventing wheel

But see Tables. or other carriages from having a free passage to such ships or vessels for the purpose of loading or unloading them, nor to cause to be erected any wharves which shall extend beyond those already built in front of the said *cul-de-sac*, nor to erect or construct upon the said wharves any other buildings, but those which shall be necessary for sweating of plank and boiling pitch and tar required for repairing vessels, and to deposit one or two fire engines.

Allowance to the treasurer.

XIV. And whereas it is just and reasonable from the risk and responsibility attending the receiving and paying of public monies, that a proper allowance should be made to the treasurer of the said trinity house of Quebec on all monies that shall or may come into his hands, either by virtue of this act or by virtue of the before recited act of the forty-fifth George the Third, chapter twelfth, and of the provincial act of the forty-seventh George the Third, chapter tenth:—Be it further enacted, &c., that from and after the passing of this act, the treasurer of the trinity house of Quebec for the time being shall be and he is hereby authorized to charge five per cent. upon all monies received by him, annually: Provided always, that if at any time the said charge of five per cent. so made by the said treasurer shall yield a greater sum than one hundred pounds, current money of this Province, then and in such case the same shall be reduced in such a proportion as not to exceed the said sum of one hundred pounds, current money of this Province, annually.

Not to exceed £100 per annum.

But see Tables.

Certain parts or clauses in 45 Geo. 3. Cap. 12. repealed.

XV. And be it further enacted, &c., that such parts of the eighth and ninth clauses of the act of the forty-fifth year of the reign of His Majesty George the Third, which fix rates of pilotage between Quebec and Montreal, and such part of the eighth clause of the said act which relates to the duty of pilots after the arrival of the vessel which they have so piloted to the place of her destination between the cities of Quebec and Montreal, and also the third and twenty-fifth sections or clauses of the said act, shall be and the same are hereby repealed.

Penalty on persons removing or destroying buoys, beacons, &c.
See Tables.

XVI. And be it further enacted, &c., that any person or persons wilfully removing, destroying, rendering unserviceable, or otherwise maliciously procuring to be removed, injured or destroyed any buoy, beacon or land mark placed for the purpose of improving the navigation in the river or along the shores of the river Saint Lawrence, between the island of Saint Barnaby and the city of Montreal, Lake Saint Peter inclusive, shall be guilty of an high misdemeanor, and be subject, upon conviction of such offence, in a criminal court of King's bench in the district where the same shall have been committed, to be imprisoned for not less than one month nor more than twelve months for the first offence, and not less than six months nor more than two years for a second and every subsequent offence, and be subject during such detention to hard labour.

XVII. And be it further enacted, &c., that all fines and penalties recovered under this act and under the said act of the forty-fifth George the Third, chapter twelve, (excepting fines and penalties recovered from branch pilots) shall be paid, one-half to the receiver general of this Province and applied in the same manner as the fines heretofore levied under the above-said act, and the other half to the person or persons prosecuting for the same; and the due application of the monies received under this act and the aforesaid act of the forty-fifth George the Third, chapter twelfth, shall be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury, in such manner and form as His Majesty, His Heirs and Successors shall direct.

Fines and penalties how to be paid.

See Tables.

XVIII. And be it further enacted, &c., that nothing herein contained shall affect or be construed to affect in any manner the rights of His Majesty, His Heirs or Successors, or of any person or persons, or of any body corporate or politic, those only excepted which are mentioned in the present act.

Saving of His Majesty's rights.

XX. And be it further enacted, &c., that this act shall be deemed and taken to be a public act, and as such shall be noticed by all judges, justices and other persons whomsoever, without specially pleading the same.

Public act.

An Act to amend an act passed in the forty-fifth year of His Majesty's Reign, intituled, *An act for the better regulation of Pilots and Shipping in the Port of Quebec and in the Harbours of Quebec and Montreal, and for improving the Navigation of the River Saint Lawrence, and for establishing a Fund for decayed Pilots, their Widows and Children.*

52 Geo. III. Cap 12.

WHEREAS it is found by experience that the decayed pilot fund created and established by and in virtue of an act passed in the forty-fifth year of His Majesty's reign, intituled, *An act, &c.*, (45 Geo. 3. cap. 12.) hath been chiefly realized by contribution upon pilotage earned and received by branch pilots of the said river St. Lawrence for and below the harbour of Quebec, which fund, from the weighty and disproportionate claims of decayed pilots for the said river from Quebec to Montreal and their widows, is likely to become exhausted, unless a speedy remedy be applied, and separate funds established, as well for pilots for the river Saint Lawrence below the port and harbour of Quebec, as for pilots for the river Saint Lawrence above the port and harbour of Quebec:—Be it therefore enacted, &c., that the said fund called the decayed pilot fund, shall, from and after the passing of this act, be divided into two separate and distinct funds, and the contributions now by law established and collected upon pilotage of ships or vessels below the harbour of Quebec, shall go to and form a separate and distinct fund for the relief of decayed pilots for and below the harbour of Quebec, their widows and children, and that the same shall be called and known by the name of *The Quebec decayed pilots' fund*; and that the contributions in like manner by law established and collected upon pilotage above the harbour of Quebec, shall in future go to and form a separate and distinct fund for the relief of decayed pilots for the river Saint Lawrence above the port of Quebec, their widows and children, and that the said fund shall be called and known by the name of *The Montreal decayed pilots' fund*; and that the said funds shall be realized and collected as already is settled and established by law, and appropriated to the respective benefit of such decayed pilots, their widows and children, as may be entitled to assistance from either of the said funds.

Preamble.

See Tables.

Decayed pilots, fund divided into two distinct funds.

See Tables.

19th sect. of 45
Geo. 3. c. 12,
repealed.

Pilot carried
off to sea, to
be provided
with a passage
back to Que-
bec and an al-
lowance made
him until then.

See Tables.

II. And be it further enacted, &c., that the fourteenth clause of the afore-
said act of the forty-fifth of His Majesty, b) and the same is hereby repealed ;
and that from and after the passing of this act, if any ship or other vessel
bound outwards from the port of Quebec, shall carry off to sea, through stress
of weather, any pilot, the master or owner of such ship or other vessel shall
provide such pilot, over and above the sum which shall be due to such pilot
for the pilotage of such ship or other vessel, with a passage back to the port
of Quebec, or shall pay to him the value of such passage, if such pilot shall
agree to receive the same, from the port to which such vessel shall be bound ;
and further the sum of six pounds, sterling, per month, shall be allowed
to such pilot, to the day in which the said passage shall be so provided or
so paid for, he having performed, whilst on board, the duties whereof he may
be capable.

2 Geo. IV.
Cap. 7.

An Act further to amend and to extend the provisions of certain
Acts therein mentioned, relating to Pilots and to the Navigation
of the River Saint Lawrence, and for other purposes therein
specified.

Preamble.

See Tables.

Governor em-
powered to ap-
point addi-
tional wardens.

WHEREAS it is expedient further to amend and extend the provisions
of an act passed in the forty-fifth year of the reign of His late Ma-
jesty George the Third, intituled, *An act, &c* , (45 Geo. 3. cap. 12):—
Be it therefore enacted, &c., that it shall, from and after the passing of
this act, be lawful for the Governor, Lieutenant-Governor, or person ad-
ministering the government of this Province for the time being, to appoint,
in addition to the five wardens of the trinity house of Quebec actually by
law appointed, one more warden for the port of Quebec and two more
wardens for the port of Montreal,—making the said trinity house of Quebec
hereafter to consist of a master, deputy master and eight wardens, exclusive
of the superintendent of pilots and the harbour master of Quebec, who are
ex officio wardens of the said trinity house.

But see Tables.

Trinity house
may compel
persons to give
evidence on
oath as to the
qualification of
apprentices ap-
plying to be
received as pi-
lots.

II. And be it further enacted, &c., that when any person or persons hav-
ing served an apprenticeship to any branch pilot for the river St. Lawrence,
may make application to be received as a branch pilot for and below the
harbour of Quebec, it shall be lawful for the trinity house aforesaid to com-
pel any master or commander, being in the port of Quebec, of any ship or
vessel not being then cleared out at the custom house, in which such ap-
plicant may have made a voyage to or returned from Europe, to attend and
give evidence on oath,—under a penalty of five pounds, currency, and in
default to pay the said penalty, under pain of imprisonment not exceeding
eight days in case of neglect or refusal,—before such trinity house, with
respect to the voyage or voyages performed or pretended to have been per-
formed by such applicant to Europe as aforesaid ; and it shall also be com-
petent and lawful for the said trinity house to examine upon oath such
applicant, or the pilot or pilots with whom he may have served his appren-
ticeship, touching and concerning the apprenticeship of such applicant, and
to compel the attendance of such pilot or pilots if need be, under the penalty
aforesaid ; all which oaths the trinity house aforesaid is hereby authorized
to administer, when the same may be requisite ; and every such person or
persons as aforesaid to whom any of the oaths authorized by this act shall
be duly administered, who shall falsely swear, shall, on being thereof law-
fully convicted, incur and suffer the pains and penalties of wilful and cor-
rupt perjury.

III. And be it further enacted, &c., that any pilot who hereafter shall or already may have forfeited and been deprived of his branch by reason of the loss of any ship or vessel, shall and may at any time hereafter, on application of such pilot, be by the said trinity house, if such trinity house shall deem it expedient so to do, reinstated under a new branch, with the approbation of the Governor, Lieutenant-Governor, or person administering the government of the Province for the time being, such pilot being; previous to his rehabilitation, examined by the said trinity house and by the same approved as to his fitness and capacity.

Flow pilots deprived of their branch may be reinstated.

Proviso.

IV. And be it further enacted, &c., that in case of the unavoidable absence of the harbour master from the port of Quebec, or in case of his being unable to fulfil the duties of his office by reason of sickness, the assistant harbour master of Quebec shall be vested with and may exercise, all and every the powers and authorities which by law heretofore have been and are actually vested in the harbour master aforesaid.

Assistant harbour master of Quebec to act as harbour master in certain cases.

V. And be it declared and further enacted, &c., that when any ship or vessel shall in the same summer perform more than one voyage to the port of Quebec, it shall not be incumbent on the harbour master to furnish or deliver to the master or commander of such ship or vessel, arriving at Quebec in the performance of a second or subsequent voyage in the same season as aforesaid, a printed extract of the provincial statutes or of the by-laws, rules and regulations of the trinity house, concerning pilots and the navigation of the river Saint Lawrence, nor shall he be entitled to exact, have or recover any fee, recompense or remuneration therefor, any law or statute heretofore in force to the contrary notwithstanding,—unless some new by-laws, rules or regulations shall, in the mean time, have been made and provided according to law, or unless the master or commander of such ship or vessel performing such second or subsequent voyage, may have been removed and changed and another master or commander substituted in his stead, previous to her arrival at Quebec in the performance of such second or subsequent voyage, in both of which cases it shall be the duty of such harbour master to furnish and deliver to the master or commander such new by-laws, rules and regulations as may have been made since his last voyage, or to such new master or commander. (as the case may be,) a copy of all such by-laws, rules and regulations as aforesaid, new and old, and for which he shall be entitled to receive seven shillings and six pence, currency, and no more.

Harbour master not to furnish to masters of vessels making a second voyage in a season an additional copy of the provincial statutes or by-laws of the trinity house.

Exception.

VI. And be it further enacted, &c., that from and after the passing of this act, the naval officer of the port of Quebec shall be entitled to have, recover and receive two and a half per centum from and out of, and on all monies that shall hereafter by him be collected or received under and in virtue of the said act, &c., (45 Geo. 3. cap. 12.) and in virtue of a certain other act, &c., (47 Geo. 3. cap. 10.) and no more; any thing in either of the said acts contained to the contrary hereof, in any wise notwithstanding.

Naval officer allowed a certain per centage on monies received.

VII. Provided always, and be it further enacted, &c., that the said naval officer shall, from and after the passing of this act, be bound to enter into and give security to His Majesty, with two good and sufficient securities to be approved by the Governor, Lieutenant-Governor, or person administering the government of the Province for the time being, in such sum as the Governor, Lieutenant-Governor, or person administering the government shall see fit, for the faithful performance of the duties imposed upon him by this and by the above-recited acts, and that he will well and truly account

Naval officer to give security to His Majesty in such form as the Governor shall think fit.

See Tables.

for and pay, all and every the sum and sums of money which he may receive in virtue of the said acts, as in and by the said acts it is ordained and provided,—which security shall be taken by the secretary of the Province or his deputy, and shall remain among the records or remembrances of his office; and in case of the neglect, refusal or inability of the said naval officer to find or give security as aforesaid, it shall be lawful for the Governor Lieutenant-Governor, or person administering the government of the Province for the time being, to appoint some other person to do and perform the duties of the naval officer, under and in virtue of this and of the above recited acts, and such person, giving security as herein required, shall be entitled to the benefits and emoluments by this act granted to the naval officer aforesaid, and not otherwise.

Hired ships and transports subject to the same duties as merchant ships.

VIII. And be it declared and further enacted, &c., that all hired ships and transports employed in His Majesty's service, arriving at the harbour of Quebec or proceeding further up the river St. Lawrence, shall be liable to all and every the duties for which merchant ships are liable under and in virtue of the aforesaid act, passed by the Legislature of this Province in the forty-fifth year of the reign of His Majesty George the Third, chapter the twelfth, and under and in virtue of the said act passed in the forty-seventh year of the reign of His Majesty aforesaid, chapter tenth, and also under and in virtue of an act passed in the fifty-second year of His Majesty aforesaid, chapter twelfth; and the said duties shall be received, sued for and recovered as in and by the said act it is provided and ordained.

Persons finding anchors, boats, &c. to deliver up the same to the harbour master. Penalty for neglect or refusal.

X. And be it further enacted, &c., that it shall be the duty of all and every person and persons finding or grappling up or having found or grappled up, in any part of the river Saint Lawrence from and below the port of Montreal, the said port included, any anchors, cables, boats or other effects of any description whatsoever, to declare and deliver the same,—under the penalty not exceeding five pounds, currency, for every default or neglect so to do,—to the harbour master of Quebec or of Montreal, as the case may be, within fifteen days after finding or grappling any such anchor or anchors, cable or cables, boat or boats, or other effects as aforesaid; which anchor or anchors, cable or cables, boat or boats, or other effects, shall, immediately after delivery to such harbour master as aforesaid, be by him notified and published in the Quebec Gazette or in some public newspaper printed and published in Quebec, or in the Montreal Gazette or other newspaper printed in Montreal, as the case may be, during at least three weeks, to the end that the owner or owners thereof may have and recover the same, paying therefor such reasonable salvage and expenses as may be awarded by the trinity house aforesaid; and if at the expiration of six months next after the first notification and publication as aforesaid, such anchor or anchors, cable or cables, boat or boats or other effects as aforesaid shall not be claimed by the owner or owners, the same, after public notice by at least one publication in some public newspaper printed and published in the city of Quebec or Montreal, as the case may be, shall be sold at public auction, and the proceeds, all lawful costs and charges being previously deducted, shall be applied, the half to the improvement of the navigation of the river Saint Lawrence, and the other half shall belong to the person who shall have found such anchor, cable, boat or other effects.

Steam boats to be subject to a tonnage duty.

XI. And be it further enacted, &c., that all vessels or boats impelled or navigated on the river Saint Lawrence, by means of steam, commonly called steamboats, shall hereafter be subject, while lying in the port of Quebec,

to the by-laws, rules and regulations of the trinity house of Quebec; and for each and every voyage which any and every such steamboat shall perform from Quebec to Montreal, and from Montreal to Quebec, or from either of the said places to any intermediate port or place, or to or from any place on the river Chambly, there shall be paid by the owner or owners thereof, a tonnage duty of one-half penny, currency, for every ton which such steamboat may bear by register measurement; which duty shall be applied to the improvement of the navigation of the river Saint Lawrence between Quebec and Montreal, as directed by the acts herein mentioned; and the pilots or persons, if branched, having charge of or piloting such steamboats, either to places above or below Quebec, shall also respectively be liable for and contribute towards the Quebec or Montreal decayed pilot fund, as the case may be, the sum of five per cent. upon the wages or hire they may respectively be entitled to have and receive for their service in such steamboat or boats; all which duties hereby imposed shall be raised, levied and collected from the several owners, masters, agents or consignees of the said steamboats, by the naval officer at Quebec, in the manner and to be by him ascertained and paid for as provided by the said acts, passed in the forty-fifth and forty-seventh years of the reign of His late Majesty George the Third; and for his services in collecting, receiving and paying over the monies arising from the duties hereby imposed, the said naval officer shall be entitled to have and recover from and out of the said monies, two and a half per cent. and no more.

But see Tables.

Branch pilots piloting steam boats, to contribute to the pilot fund.

XII. And be it further enacted, &c., that all steamboats navigating the river Saint Lawrence, shall hereafter, when in the performance of any voyage on the said river, whether at anchor or otherwise, carry at all times in the night, between dusk and daylight, a clear and distinct light on the bow and another on the stern, under the penalty not exceeding one hundred pounds, currency, to be recovered from the master or owner or owners, for every neglect, default or omission so to do.

Steam boats to carry two lights during the night.

XIII. And be it further enacted, &c., that the members and officers of the said trinity house shall hereafter be exempt from serving as constables.

Members, &c. not to serve as constables.

XIV. And be it further enacted, &c., that the due application of the monies which shall be raised, levied and collected under and in virtue of this act, shall be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall be pleased to direct.

Application of the monies to be accounted for to His Majesty.

XV. And be it further enacted, &c., that nothing herein contained shall affect or be construed to affect in any manner, the rights of His Majesty, His Heirs and Successors.

Saving of the King's rights.

An Ordinance to authorize the Corporation of the Trinity House of Quebec, to borrow a certain sum of money, and for other purposes relative to the said Corporation.

4 Vict. Cap. 5.

WHEREAS the funds placed by law at the disposal of the master, deputy master, and wardens of the trinity house of Quebec, to defray the expenses necessary for improving the navigation of the river Saint Lawrence within and below the port of Quebec, and for maintaining the light houses and lights requisite for the safety of vessels navigating the said river and the gulf of Saint Lawrence, and for other objects of a like nature,

Preamble.

The corporation of the trinity house of Quebec may borrow £5000 currency, upon interest, with the approval of the Governor.

Proviso.

From what funds the principal and interest are to be paid.

To what purposes the amount borrowed is to be applied.

The corporation may provide a larger decked vessel to be employed under their directions.

are at present insufficient for the said purposes ; and whereas the said corporation have therefore prayed to be authorized to borrow money to meet the said expenses, and it is expedient to grant their prayer, under the provisions hereinafter mentioned :—Be it therefore ordained and enacted, &c. that it shall be lawful for the corporation of the master, deputy master, and wardens of the trinity house of Quebec, with the approval of the Governor, Lieutenant-Governor, or person administering the government of the said Province, to borrow a sum or sums not exceeding in the whole five thousand pounds, currency, from such person or persons, body or bodies politic or corporate, as may be willing to lend the same on the credit of the funds placed by law at the disposal or under the control of the said corporation for the purposes aforesaid, and without any claim or right to the reimbursement of the sums so lent, or to the payment of the interest thereon, out of the general funds of this Province ; and such sum or sums may, with such approval as aforesaid, be borrowed at such rate of interest (whether exceeding six per cent. per annum or otherwise,) and may, with such approval as aforesaid, be made payable at such time, as shall be agreed upon between the parties lending the same and the said corporation : Provided always, that no greater sum than two thousand five hundred pounds, currency, shall be so borrowed or shall be made payable, in any one year.

II. And be it further ordained and enacted, &c., that the said corporation shall pay the principal and interest of the sum or sums so borrowed, to the parties entitled to receive the same, at the times and according to the rate so agreed upon and approved as aforesaid, out of the funds placed at the disposal or under their control, or by law directed to be applied by them for the purpose of improving the navigation of the river Saint Lawrence, or of maintaining the light houses and lights on the same, or for other purposes of a like nature ; and the said payment shall form the first charge upon such funds, after deducting the expenses of collecting the same, and shall be made by the said corporation (after such deduction) in preference to all other payments whatsoever ; any statute, law, usage or custom to the contrary notwithstanding.

III. And be it further ordained and enacted, &c., that it shall be lawful for the said corporation to apply the sum or sums so borrowed under the authority of this ordinance, to defray any expense by them lawfully incurred in improving the navigation of the river Saint Lawrence, or in maintaining the light-houses and lights requisite for the safe navigation of the said river or of the said gulf of Saint Lawrence, or for other purposes of a like nature or for the purposes of this ordinance.

IV. And whereas the said corporation is by law authorized, with the approval of the Governor, Lieutenant-Governor, or person administering the government of the said Province, to provide a decked vessel, not exceeding sixty tons burthen, for their use and for the purposes hereinafter mentioned ; and whereas from the increased number of lights and buoys on the said river Saint Lawrence, it is expedient that the said corporation should be provided with a vessel of larger dimensions :—Be it therefore further ordained and enacted, &c., that the said corporation may, if they shall deem it expedient, and with the approval of the Governor, Lieutenant-Governor or person administering the government of the said Province, provide a decked vessel of such dimensions as they shall think advisable, to be employed as need may be in examining the channels and navigation of the said river, in visiting the light houses under the control of the corporation, if

laying down and taking up buoys, and for all such lawful purposes as they shall deem necessary; and the said corporation may defray the whole or any part of the cost of such vessel, out of any monies borrowed under the authority of this ordinance, or out of the proceeds of the sale of the vessel they now have, and which they are hereby authorized to sell, or out of any funds at their disposal and not exclusively or preferably appropriated by this ordinance, or by law, to any other purpose; any law, statute or usage to the contrary notwithstanding.

How the cost thereof is to be defrayed.

V. And be it further ordained and enacted, &c., that the due application of all monies borrowed, appropriated or expended under the authority of this ordinance, shall be accounted for to the said corporation, in the manner by law provided with regard to the due application of other monies heretofore placed at their disposal, for the improvement of the navigation of the river Saint Lawrence.

Application of all monies to be accounted for.

* By—see French.

An Ordinance to empower the Corporation of the Trinity House of Quebec, to sell and convey a certain portion of the Harbour of the *Cul-de-sac*, in the City of Quebec, to the Corporation of the said City. 4 Vict. Cap. 6.

WHEREAS by a certain act passed in the fifty-first year of the reign of King George the Third, and intituled, *An act, &c.*, (51 Geo. 3. cap. 12.) the property of the harbour of the *cul-de-sac*, in the lower town of the city of Quebec, is vested in the trinity house of the city of Quebec, but it is by the said act provided that the said corporation shall not reduce the extent which the said *cul-de-sac* then had; and whereas it hath become expedient that the said corporation should be authorized to sell and convey to the corporation of the mayor, aldermen and citizens of the city of Quebec, for the use of the said city, a certain portion of the said harbour of the *cul-de-sac*, and so to reduce the extent thereof, in the manner and under the provisions hereinafter set forth:—Be it therefore ordained and enacted, &c., that so much of the act herein first above cited as shall be in any wise contrary to the enactments of this ordinance, shall be and is hereby repealed; and it shall be lawful for the said corporation of the trinity house of Quebec, with the approval of the Governor, Lieutenant-Governor, or person administering the government of this province, and not otherwise, to sell, and by an instrument under the hand of the master or of the deputy master, and of any three of the wardens of the said trinity house, and under the seal of the corporation, to convey to the corporation of the mayor, aldermen and citizens of the city of Quebec, so much of the said ground (whether covered with water or otherwise) included within the said harbour of the *cul-de-sac*, as shall lie within the limits hereinafter mentioned and shall be required by the corporation last aforesaid for the use of the said city of Quebec; and such sale and conveyance may, with such approval as aforesaid, be made upon such terms and conditions as shall be agreed upon by the said corporations respectively; and the property of the portion so sold and conveyed shall, from and after such sale and conveyance, be vested in the said corporation of the mayor, aldermen and citizens of the city of Quebec and their assigns, for ever: Provided always, that so much only of the said harbour of the *cul-de-sac* shall or may be sold and conveyed under the authority of this ordinance, as shall lie within the limits hereinafter mentioned, that is to say:—

Preamble.

Act 51 Geo. 3. cap. 12. in part repealed.

The trinity house of Quebec may sell a part of the harbour of the *cul-de-sac* to the corporation of Quebec.

What portion of the *cul-de-sac* may be sold.

Firstly—A line drawn from the southwesterly corner of the property of James Hunt, esquire, along the beach of the river Saint Lawrence, upwards,

and parallel to the street called *cul-de-sac* street, to the distance of one hundred and sixty-eight feet from the place of beginning ;

Secondly—A line drawn from the end of that last mentioned and at right angles to it, to *cul de-sac* street aforesaid ;

Thirdly—The street last mentioned ; and

Fourthly—The boundary of the said harbour of the *cul-de-sac* towards the north-east.

How the proceeds of the sale are to be disposed of.

II. And be it further ordained and enacted, that the monies arising from any sale made under the authority of this ordinance, shall and may be received by the said corporation of the trinity house of Quebec, and shall form part of the funds placed by law at their disposal to defray the expenses necessary for improving the navigation of the river Saint Lawrence, and for other purposes of a like nature, and may be applied by the said corporation to any purposes to which the said funds may by law be applied, and shall be accounted for in the manner by law provided with regard to the said funds.

6. TRINITY HOUSE, MONTREAL.

2 Vict. (3)
Cap. 19.

An Ordinance to suspend in part certain Acts therein mentioned, and to establish and incorporate a Trinity House in the City of Montreal.—(*Temporary.*)

Preamble.

Such parts of act 45 Geo. 3. cap. 12.
47 Geo. 3. cap. 10.
51 Geo. 3. cap. 12.
52 Geo. 3. cap. 12.
and 2 Geo. 4. cap. 7, as are contradictory with this ordinance suspended.
See those acts and notes on them in Tables.

WHEREAS it is expedient to provide for the better regulation of that part of the river Saint Lawrence between the basin of Port Neuf, exclusively, in the district of Quebec, and the Province line, and of the several rivers falling into the river St. Lawrence within the said limits, and of the shipping therein, and of the pilots employed in the navigation thereof, and to establish a trinity house in the city of Montreal, independent of and distinct from that established by a certain act passed in the forty-fifth year of the reign of His late Majesty King George the Third, under the name of *The master, deputy master and wardens of the trinity house of Quebec* :—Be it therefore ordained and enacted, &c., that it shall not be necessary that any of the wardens of the said corporation erected by the said act, &c. (45 Geo. 3. cap. 12.) shall reside in the city of Montreal, and that so much of the said act and of a certain act, &c. (47 Geo. 3. cap. 10.) and of a certain act, &c. (51 Geo. 3. cap. 12.) and of a certain act, &c. (52 Geo. 3. cap. 12.) and of a certain other act, &c. (2 Geo. 4. cap. 7.) as relates to the limits of the port of Quebec—to the jurisdiction, control and authority of the said corporation, between the basin of Port Neuf aforesaid and the Province line, and on the rivers falling into the river St. Lawrence, within the said limits,—and to their control and authority over *The Montreal decayed pilots' fund*,—and to their power of making or enforcing by-laws, rules and regulations within the said limits,—and to their power of holding real and immoveable estate within the said limits,—and to their power of examining and licensing pilots for and above the harbour of Quebec, and to their control over such pilots,—and to the appointment of the harbour master and officers, clerks and bailiffs in and for the said harbour of Montreal,—and to the power of the master, deputy master and wardens of the said trinity house of Quebec, to hear and determine any dispute between any master of a ship or vessel and any pilot for and above the harbour of Quebec, in any matter whatsoever, or any matter of complaint

against any such pilot on any charge whatsoever, and to all the consequences of such hearing and determining,—and to the power of the said master, deputy master and wardens to hear and decide finally any matter of complaint or dispute, by and between such pilots for and above the harbour of Quebec and their apprentices, and to all the consequences of the said power,—or to the power of the said corporation to reinstate by a new branch any pilot for and above the harbour of Quebec, deprived of his branch by reason of the loss of any ship or vessel,—or to the persons to whom certain duties imposed on steam boats navigating the river St. Lawrence, shall be paid, and by whom they shall be applied,—and generally all matters and things in the said acts or either of them, in anywise contradictory to or inconsistent with the provisions of this ordinance,—shall be, and so much of the said acts, respectively, is hereby suspended during the continuance of this ordinance.

II. And be it further ordained and enacted, &c., that the said port of Quebec shall not hereafter extend or be deemed to extend, higher up the river St. Lawrence than the basin of Port Neuf, inclusively, in the district of Quebec; and that the port of Montreal shall extend from the said basin of Port Neuf exclusively, to the Province line, and shall include such parts of the several rivers falling into the St. Lawrence within the said limits, as shall be within this Province: Provided always, that the limits of the harbour of Quebec and the harbour of Montreal shall be and remain as established by the act hereinabove first cited.

III. And be it further ordained and enacted, &c., that it shall and may be lawful for the Governor, Lieutenant-Governor, or person administering the government, by an instrument under the great seal of the Province, from time to time to constitute and appoint two fit and proper persons, residing in the city of Montreal, to be master and deputy master, and not exceeding five other persons, also residing in the said city, to be wardens of the trinity house of Montreal, and from time to time to remove the said master, deputy master and wardens, or any or either of them, and to appoint others to be successors of such as shall be so removed or die, or resign their trust; and the said master, deputy master and wardens, and their successors, so constituted and appointed, shall be and they are hereby declared to be a body politic and corporate in name and in deed, by the name of *The master, deputy master and wardens of the trinity house of Montreal*, and shall have perpetual succession, and a common seal, with power to change, alter, break and make anew the same, when and as often as they shall judge the same to be necessary; and they and their successors, by the same name, shall sue and be sued, implead and be impleaded, answer and be answered, in all or any court or courts of record or place of judicature within this Province, and shall be able and capable in law to purchase, have, hold, receive, enjoy, possess and retain, moveable property and immoveable estates, for the purpose of erecting a light house or light houses, beacon or beacons, or otherwise improving the navigation and pilotage of the river St. Lawrence and other rivers within the limits of the port of Montreal.

IV. And be it further ordained and enacted, &c., that the master of the trinity house of Montreal, so constituted and appointed as aforesaid, shall *ex officio* be the principal of the said corporation hereby erected; and that it shall be lawful for the Governor, Lieutenant-Governor or person administering the government of this Province for the time being, by an instrument or instruments under his hand and seal, from time to time to nominate

Limits of ports of Quebec and Montreal defined.

Governor may appoint a Master, Deputy Master and Wardens of Trinity House of Montreal.

They shall be a body politic and corporate.

Their corporate powers.

Master to be *ex officio* the principal of the corporation.

Harbour Master of Montreal—Registrar, &c.	and appoint, remove, replace or re-appoint a person to be harbour master of Montreal, and also a person to be registrar and treasurer of the said corporation, and such other officers, clerks and bailiffs as he shall judge necessary for the said corporation; and the said corporation shall hold their
Days of sitting and place of meeting.	meetings on every Saturday, (provided it be not a holiday) of every month, and on any other days which they may find it necessary to appoint, for the execution of the trust imposed upon them by virtue of this ordinance, in some suitable room or place in the city of Montreal, which shall be selected by a majority of the wardens at a meeting regularly held, of which the master or deputy master must be one; and that it shall be the duty of the registrar of the said corporation, after his appointment and that of the other officers of the said corporation, to give public notice* in the French and English languages in at least two newspapers, one of which to be the Montreal Gazette, published in the city of Montreal, and be continued once a week in said papers for at least one month; and like notice shall be given as aforesaid, every time the corporation shall think fit to remove the place of their meeting, within the said city of Montreal: Provided always, that the harbour master of Montreal and his successors in office, shall not in any case be master, deputy master, or one of the wardens of the said trinity house of Montreal.
* Thereof—see French.	
Proviso.	
Master, deputy master and wardens to take an oath of office.	V. And be it further ordained and enacted, &c., that before the said master, deputy master and wardens shall enter upon the execution of the duties for them prescribed by this ordinance, or any of them, they shall severally take and subscribe an oath before one of the justices of the court of King's bench for the district of Montreal, in the words following, that is to say:—"I, A. B., do swear that I will truly and impartially, according
Oath.	"to the best of my skill and understanding, execute the powers vested in me by a certain ordinance, intituled, <i>An ordinance to suspend in part certain acts therein-mentioned, and to establish and incorporate a trinity house in the city of Montreal</i> : So help me God:—" which oath so taken and subscribed shall be fyled of record and remain deposited in the office of the prothonotary of the said court.
Master or deputy master and wardens may establish aftertimes of meeting.	VI. And be it further ordained and enacted, &c., that the said master, or deputy master and wardens, or any three or more of them (of whom the master or deputy master shall always be one,) being assembled at the time and place so appointed, at Montreal, shall establish the aftertimes of meeting, with power to adjourn the same from time to time, and to assemble in the said city on extraordinary occasions when it shall be necessary; and being so from time to time assembled in the said city, shall have full power and authority to make, ordain and constitute such and so many by-laws, rules and orders, not repugnant to the maritime laws of Great Britain, or to the laws of this Province, or to the express regulations of this ordinance, as by them shall be judged expedient and necessary, as well for the direction, conduct and government of the said corporation, and of their property, real and personal by them held, as for the more safe, convenient and easy navigation of the river St. Lawrence, and of the several rivers within the limits of the port of Montreal, as well by the laying down and taking up of buoys and anchors, as by the erecting of light-houses, light ships or floating lights, beacons and landmarks, the clearing of sands or rocks, or other objects whatsoever,—and also for the amendment and improvement of the several harbours, within the limits of the said port, and preventing injury thereto,—for the anchoring, mooring, riding, and fastening of all ships, vessels, steam-
May make by-laws and regulations, for certain purposes, direct the placing of beacons, &c.	

boats and other craft, resorting to the said harbours, and for the better ordering and regulating the same, while lying in the said harbours,—and also in respect to fire-places on board of ships or vessels, and lighting and extinguishing fires therein, as also respecting lighted candles when such ships or vessels lie at any quay or wharf, in the said harbours, also to the boiling and melting of pitch, tar, turpentine or rosin, in the said harbours or on the beaches thereof,—and also for the government and regulation of the pilots for and above the harbour of Quebec, of the conduct of such pilots towards their apprentices, and of such apprentices towards their masters, and for the better qualification, instruction, service and examination of such apprentices,—and the same to revoke, alter and amend, in such manner as will in their opinion most effectually promote the purposes for which this ordinance is intended ; and for enforcing the said by-laws, rules and orders, the said master, deputy master and wardens, or any three of them, assembled as aforesaid, are hereby further empowered in or by such by-laws, rules and orders, to impose and lay any fine or penalty not exceeding ten pounds, currency, upon all and every person or persons who shall be guilty of infringing the same, or to suspend for a time, or to dismiss from office any person or persons, if a pilot or pilots, who shall be guilty of any breach of such by-laws, rules or orders, as by them or the majority of them shall be judged fit and reasonable : Provided always, that no such by-laws, rules or orders, shall have any force or effect until the same shall have been sanctioned and confirmed by the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being, under his hand and seal at arms, and shall thereafter have been published both in French and English, in at least two newspapers, published in the city of Montreal, one in the English and the other in the French language, if any such there be,—and if not, then in two such newspapers so published in the English language, one of which, in either case, to be the *Montreal Gazette*.

May impose
fines, &c.

By-laws not
to have force
till sanctioned
and published.

VII. And be it further ordained and enacted, &c., that it shall be lawful for the master, deputy master and wardens of the said trinity house of Montreal, or any three or more of them, to hear and determine all matters and things relating to any beach of the river Saint Lawrence, or of any other rivers within the jurisdiction of the corporation,—disputes between any pilot and any master of a ship or vessel, respecting any sums of money claimed for pilotage or extra or other services,—and also all matters of complaint against pilots for neglect or misbehaviour in any part of the duty required of them by this ordinance, or by the by-laws, rules, regulations, or orders of them the said master, deputy master, and wardens, enacted and made by virtue of this ordinance,—as well as to hear and to determine all offences committed against this ordinance, or against any such by-laws, rules, regulations, or orders, by any person or persons whatsoever, for which especial provision is not herein made for trial by other jurisdictions ; and that the said master, deputy master and wardens, or any three of them, are hereby required and empowered, upon information, to summon the party accused or from whom money shall be claimed, and the witnesses to be heard as well in his favour as against him, by any of the bailiffs of the said corporation, and upon the appearance, (or default of the party accused or complained against, in not appearing upon proof of service of such summons,) to proceed to the examination of the witness or witnesses upon oath, and to give judgment accordingly, with such costs thereupon as they shall think reasonable,—and when the party accused or complained against, shall

Master or de-
puty master
and wardens
may determine
matters res-
pecting
beaches—dis-
putes between
pilots and ship
masters, &c.

May summon
masters and
witnesses, &c.

May award
costs, issues

warrants and
levy amount of
judgment or
fine.

Their bailiff
may board any
vessel within
limits of juris-
diction.

* Such warrant
See French.

In case of a
return *nulla
bona*.

* *Sic*.

Proviso.

Proviso.

From judg-
ment above
£20 cy., ap-
peal to King's
bench on giv-
ing security.

Above £500
stg. to provin-
cial court of
appeals, &c.
Proviso.

* *Saisie in the
French.*
Proviso.

be convicted of such offence, or if judgment be given on such claim by proof or confession, to issue a warrant or warrants under the hand of the registrar and under the seal of the said corporation, empowering and requiring any of the bailiffs of the corporation, of the goods and chattels belonging to the party convicted, to levy the amount of such judgment or of any pecuniary fine imposed by such conviction, with the costs of suit, and cause sale thereof to be made,—which warrant shall authorize the bailiff to go on board of any ship or vessel lying in any part of the river Saint Lawrence, or any other river within the limits of the jurisdiction of the said trinity house of Montreal, and there to execute * by *saisie* and sale of the goods and chattels which shall then and there be found appertaining to the person or persons against whom such warrant shall thus be issued, and also so to go on board on return of *nulla bona*, to execute the warrants as hereinafter mentioned; and when the goods of such person or persons so convicted or against whom a judgment shall be given, shall not be found, the said master, deputy master and wardens, or any three of them, on a return of *nulla bona* to them made by such bailiff, shall and may by warrant under the hands of any two of them, and of the registrar, and the seal of the said corporation, addressed to any of the bailiffs of the said corporation, may and shall * cause to be apprehended and committed the person or persons against whom such judgment shall have been given or the person or persons so convicted, to the common gaol of the district in which such person or persons shall be found, there to remain until the penalty imposed by such conviction, or the amount of the judgment given, with the costs in either case, shall have been paid and satisfied: Provided always, that no person so committed shall be so detained in prison for a period exceeding three calendar months; And provided also, that all disputes between pilots and masters of vessels, occurring on the river Saint Lawrence, and while the vessel is on her way from Quebec to Montreal, or from Montreal to Quebec, may be heard and determined either by the master, deputy master and wardens of the trinity house of Quebec, or by the master, deputy master and wardens of the trinity house at Montreal.

VIII. Provided always, and be it further ordained and enacted, &c., that the master of any ship or vessel or any person or persons, against whom a judgment shall be given as aforesaid, for a sum exceeding twenty pounds, currency, upon giving security to the person or persons in whose favour such judgment shall be so rendered, to the satisfaction of the master or deputy master and wardens who rendered such judgment, for the amount thereof, with costs, shall be entitled to an appeal to the court of King's bench for the district of Montreal; and the said court of King's bench, upon the hearing of such appeal, shall give such judgment as in its consideration shall be just and right, with costs; and the judgment of such court of King's bench shall be final, except in cases exceeding the sum of five hundred pounds, sterling, in which case an appeal shall lie in the ordinary course of law, to the provincial court of appeals, and from thence to the court of Her Majesty in her privy council: Provided also, that nothing in this ordinance contained, shall extend or be construed to extend to authorize the going on board of Her Majesty's ships or vessels, by Her duly commissioned, to serve any summons, or to execute any warrant of service * of the said corporation: Provided also, that the proceedings and evidence had before the said master, deputy master and wardens, where their judgment shall exceed the sum of twenty pounds, currency, shall be recorded and preserved of record, and also

in all cases where the same shall extend to deprive a pilot of his branch or licence.

IX. And be it further ordained and enacted, &c., that in all cases where it shall be necessary to serve a writ of summons upon any person or persons, for any offence committed against this ordinance, or against any such by-laws, rules, regulations or orders made and constituted by this corporation, the service of such writ, if the party offending is not to be found or refuse to give his name, shall be deemed a legal service if a copy of such writ is left by the bailiff of the corporation on board of the ship, vessel, steamboat, raft or river craft, belonging to or in charge of the party so offending, between the hours of seven in the morning and six in the afternoon, in the hands of some reasonable person on board, to whom the bailiff shall explain the purpose of such summons.

Copy of summons left on board vessel or raft, to be deemed sufficient service in certain cases.

X. And be it further ordained and enacted, &c., that the said master, deputy master and wardens, when sitting judicially upon any complaint cognizable by them or any number of them under this ordinance, are, and each of them is hereby authorized and empowered to administer an oath unto the witnesses or witnesses who shall be produced on either side, as well as unto the plaintiff or plaintiffs, defendant or defendants, or any other person whom in such case it shall be necessary to examine on oath, upon the trial of any such complaints; and any person who shall wilfully swear falsely under such oath, shall be guilty of wilful and corrupt perjury, and being thereof duly convicted, shall be liable to all the pains and penalties provided by law against that offence.

Master and wardens may administer oaths.

False swearing to be perjury.

XI. And be it further ordained and enacted, &c., that when any person or persons against whom judgment shall be given by the master, deputy master and wardens of the trinity house of Montreal, or any three of them, shall not have sufficient goods and chattels within the jurisdiction of the said trinity house wherein such judgment shall have been obtained, but shall have goods and chattels within the jurisdiction of the trinity house of Quebec, it shall be lawful for the master, or deputy master, and wardens, under the hand of the registrar of the said trinity house and seal of the corporation, to award execution, addressed to the water bailiff or any bailiffs of the trinity house of Quebec, who, after getting the warrant indorsed by the master or deputy master of the said trinity house of Quebec, in the jurisdiction of which the goods and chattels are situated, shall execute the same, and make return thereof to the trinity house of Montreal from which it issued; and such warrant and return shall be by him sent to the registrar of the trinity house of Montreal whence the warrant was originally awarded, to be delivered to the master, deputy master and wardens of the said trinity house of Montreal; and the said master, deputy master and wardens of the said trinity house of Montreal, may in like manner award a warrant against the body of a person or persons residing in the jurisdiction of the said trinity house of Quebec, in cases where such warrant is by this ordinance allowed, and such warrant being indorsed by the master or deputy master of the trinity house at Quebec, may be executed within that jurisdiction, and the water-bailiff or bailiff executing the warrant to him in such case directed, shall convey the body of such person or persons to the common gaol of the district and jurisdiction wherein such person or persons shall be arrested.

Where the defendant shall not have goods within the jurisdiction of the trinity house of Montreal, his goods within the jurisdiction of the trinity house of Quebec may be seized.

Or a warrant against his body executed there.

XII. And be it further ordained and enacted, &c., that the said master, deputy master and wardens, or any three of them, sitting in their judicial

Power to preserve order in court.

capacity, shall have such and the like power and authority to preserve order in their court during the holding thereof, and by the like ways and means, as now by law are or may be exercised and used, in the like case and for the like purpose, by any courts of justice in this Province, or by the judges thereof respectively, during the sitting thereof.

Appointment
of pilots.

XIII. And be it further ordained and enacted, &c., that no person shall hereafter be appointed and commissioned as a pilot for and above the harbour of Quebec, until he shall have been examined, in the presence of such branch pilots as may have been summoned for that purpose by the master, deputy master and wardens, or any three of them, (and who shall propose questions,) and shall have obtained a certificate from the said master, deputy master and wardens of the said trinity house of Montreal, or any three of them of whom the master or deputy master shall be one, under their hands and the hand of the registrar and seal of the said corporation, of his having been so examined and being found in all things duly qualified to serve as a branch pilot for and above the harbour of Quebec: Provided always, that every pilot who now holds a branch shall continue to hold the same, unless he shall, by some offence committed after the passing of this ordinance, and after conviction thereof, have forfeited such branch.

Proviso.

Qualification
of pilots.

XIV. And be it further ordained and enacted, &c., that from and after the passing of this ordinance, no person shall be permitted to undergo an examination to obtain a licence, and to act as pilot for and above the harbour of Quebec, unless he shall have been constantly employed during three years, in the river navigation between Quebec and Montreal, and shall prove the same in a satisfactory manner by certificate from two or more persons, which certificate shall be duly attested by the oath of the persons giving the same, if required by the corporation of the trinity house of Montreal or by any of the persons present at such examination.

Apprentices.

XV. And be it further ordained and enacted, &c., that each and every branch pilot for and above the harbour of Quebec, who shall have served a regular and continued apprenticeship of three years (and no other) shall have one or more apprentices, and shall be held to enregister, at the said trinity house of Montreal, the name of each and every apprentice whom they now have or may hereafter take, and shall further enregister the date of every indenture between such pilot and such apprentice, and the name of the notary before whom it shall have been made, within three months from the passing of this ordinance, for every indenture already made, and in three months from the date of every such indenture hereafter to be made.

Annual list of
branch pilots,
to be made out.

XVI. And be it further ordained and enacted, &c., that a list of the branch pilots for and above the harbour of Quebec, specifying their names, ages and places of residence, shall annually be delivered, in the month of March in each and every year, signed by the master or deputy master, and by one or more of the said wardens, and by the registrar of the said trinity house of Montreal, to the corporation of the trinity house of Quebec, to the collector of the customs at Quebec, and to the chief officer of the customs at Montreal; which lists the said collector and chief officer respectively, shall put up in some public place in the custom house in each of the said cities.

Disputes be-
tween pilots
and appren-
tices.

XVII. And be it further ordained and enacted, &c., that all matters of complaint and dispute by and between pilots for and above the harbour of Quebec and their apprentices, shall be heard and finally decided by the master, deputy master and wardens of the trinity house of Montreal, or any

three of them; and to this end all power and authority relative thereto; heretofore in the corporation of the trinity house of Quebec, shall be and the same and every part thereof, relative to such pilots and their apprentices, are and is hereby vested in the said master, deputy master and wardens of the said trinity house of Montreal; and it shall and may be lawful to and for the master, deputy master and wardens of the said trinity house, from time to time, to call before them and to examine an apprentice to any pilot as to his progress in the calling of a pilot; and if upon the examination of any apprentice before the master, deputy master and wardens of the said trinity house, or any three of them, it shall appear to them that the master of such apprentices shall have neglected his instruction, it shall and may be lawful to and for the said master, deputy master and wardens of the said trinity house, or any three of them as aforesaid, to inflict and impose upon such master guilty of such neglect, such fine as they shall see fit, not exceeding ten pounds, currency; but if upon examination it shall appear to the said master, deputy master and wardens, that such apprentice is not duly qualified for the exercise of the calling of a pilot, from his own neglect or fault it shall and may be lawful to and for the said master, deputy master and wardens as aforesaid, to order the said apprentice to serve as an apprentice such further time, not exceeding two years, in addition to the period of service by this ordinance required, as they, the said master, deputy master and wardens, or any three of them as aforesaid, shall think necessary for the instruction and sufficient qualification of the said apprentice for the exercise of the calling of a pilot; and such apprentice shall not in any case be entitled to his branch or licence, until he shall have so served for such additional term.

Examination
of apprentices.

XVIII. And be it further ordained and enacted, &c., that in case of the loss of any ship or other vessel, through the fault of the branch pilot for and above the harbour of Quebec having charge of the same, it shall be lawful for the master, deputy master and wardens of the said trinity house of Montreal, or any three or more of them, upon the complaint or information of the master or owner of such ship or vessel, or of any person whomsoever, to declare, by and with the approbation of the Governor, Lieutenant-Governor, or person administering the government for the time being, (such approbation being signified by warrant under his hand and seal addressed to the said master, deputy master and wardens,) that such pilot hath forfeited his branch, and such pilot shall be deprived of his branch accordingly.

A pilot may be
deprived of his
branch for neg-
lect, &c.

XIX. And be it further ordained and enacted, &c., that if any person not being a branch pilot as aforesaid, shall conduct or pilot any ship or vessel not being a river craft, steamboat, steamboat barge, or lighter, engaged in the navigation between Quebec and Montreal only, for hire or otherwise, on the river Saint Lawrence, between the basin of Port Neuf aforesaid and the harbour of Montreal, such person shall, for every such offence, forfeit and pay the sum of twenty pounds, currency, to be recovered with costs, by any person who shall sue for the same before the said master, deputy master and wardens of the said trinity house, or any three of them; one moiety of which forfeiture or forfeitures shall go to the master, deputy master and wardens of the said trinity house, and be applied in the manner hereinafter directed, and the other moiety to the person who shall sue for the same: and if any branch pilot, during such time as he shall be suspended and deprived of his branch, under and by virtue of this ordinance, shall conduct or pilot any ship or other vessel, for hire or otherwise, within

Penalty of £20
on any person
not being a
branch pilot
acting as such.

Penalty on a
suspended pi-
lot for piloting.

the said limits, such pilot shall, for every such offence, forfeit and pay a sum of ten pounds, currency, to be recovered, with costs, by any person who shall sue for the same, in manner as aforesaid; one moiety of which said forfeiture shall go to the master, deputy master and wardens of the said trinity house of Montreal, and be applied in the manner hereinafter directed, and the other moiety to the person who shall sue for the same.

Montreal de-
cayed pilots'
fund trans-
ferred.

XX. And whereas it is expedient that the fund known by the name of the *Montreal decayed pilots' fund*, established by and in virtue of the said act passed in the fifty-first year of the reign of His late Majesty King George the Third, and of the said act passed in the forty-seventh year of the reign of His said late Majesty King George the Third, should be transferred to and put under the control of the corporation of the trinity house of Montreal, for the purpose of being applied to the relief of decayed pilots for the river Saint Lawrence above the port of Quebec, and of their widows and children:—Be it therefore further ordained and enacted, &c., that from and after the passing of the present ordinance, the said *Montreal decayed pilots' fund* shall be transferred from the corporation of the trinity house of Quebec, to the corporation of the trinity house of Montreal established by the present ordinance; and that all contributions now by law established, and which shall be in future collected by the naval officer, upon pilotage of ships, vessels and steamboats above the port of Quebec, shall go to, and form part of the said *Montreal decayed pilots' fund*, subject to the control of the said trinity house of Montreal.

Monies col-
lected for that
fund by naval
officer.

XXI. And be it further ordained and enacted, &c., that from and after the passing of the present ordinance, all sums of money which shall be collected by the naval officer, by and in virtue of the laws now in force, for the *Montreal decayed pilots' fund*, shall be by him paid quarterly to the treasurer of the said corporation of the trinity house of Montreal, to be applied in conformity to the provisions of the present ordinance respecting such monies.

Relief to de-
cayed pilots,
widows and
orphans.

XXII. And be it further ordained and enacted, &c., that the said trinity house of Montreal shall be authorised and required to grant such relief, out of the said pilot fund, to distressed and decayed pilots, and to the widows and children of pilots, as the said corporation or a majority thereof shall see just and proper; and the monies which, at the end of each year, shall not be distributed for the said purpose, shall be vested in securities bearing interest, upon immoveable property, according to the best of the judgment of the said corporation or a majority thereof; and an account of the state of the said funds shall annually be laid before the Governor, Lieutenant-Governor, or person administering the government; and the said corporation may be compelled to account for the monies of the said fund, in the court of King's bench for the district of Montreal, in any suit brought for the purpose by Her Majesty's attorney general for this Province, in the name of Her Majesty, Her Heirs and Successors.

Division of
fines and pe-
nalties.

XXIII. And be it further ordained and enacted, &c., that one moiety of all fines and penalties under this ordinance, recovered from branch pilots for and above the harbour of Quebec, shall be paid to the treasurer of the said corporation of the said trinity house of Montreal, and compose a part of the said decayed pilots' fund, and by the said corporation shall be applied to the purposes of the said fund, as by this ordinance are authorised and directed, and no other; and the other moiety shall belong and be paid to the prosecutor or person suing for the same.

XXIV. And be it further ordained and enacted, &c., that the trinity house of Montreal shall annually publish, or cause to be published, in French and in English, in one or more newspapers published in the city of Montreal, in the month of September, a full and complete statement of the funds belonging to, or in anywise appertaining to the pilots for and above the harbour of Quebec, with the names of all and every the person and persons receiving pensions or allowances of any kind from and out of the said funds; and a copy of the newspaper containing such statement, shall, by the said trinity house, be furnished at the expense of the funds aforesaid, to every pilot residing in this Province, directly contributing to the said funds and therein immediately interested, if applied for at the office of the said trinity house.

Statement of funds to be annually published.

XXV. And be it further ordained and enacted, &c., that all steamboats and barges navigating the river St. Lawrence from Quebec to Montreal, or from one place to another within the limits of the jurisdiction of the said trinity house of Montreal, shall, while within the said limits, be subject to the by-laws, rules and regulations of the said trinity house; and the tonnage duties imposed by the said act herein cited, passed in the second year of His late Majesty King George the Fourth, for each and every voyage which any and every steamboat shall perform from Quebec to Montreal, and from Montreal to Quebec, or from either of the said places to any intermediate port or place, or to or from any place on the river Chambly, shall be paid in the manner provided in the said act, and into the hands of the receiver general, to be applied, in the manner by law directed, to the improvement of the river St. Lawrence, and other rivers within the limits of the jurisdiction of the said trinity house, under the sanction and approval of the Governor, Lieutenant-Governor or person administering the government of the Province.

Steamboats and barges subject to by-laws and tonnage duties.

2 G. 4. c. 7. s. 11, cited.

See Tables.

XXVI. And be it further ordained and enacted, &c., that it shall be the duty of the harbour master of Montreal and his deputy, to superintend and enforce the execution of this ordinance, or of any other act or ordinance which shall relate to the harbours within the limits aforesaid, and to prosecute offenders against the same, and against all by-laws, rules, orders and regulations enacted by the said master, deputy master and wardens of the said trinity house, and approved as hereinbefore mentioned, for the amendment and improvement of the said harbour, for the anchoring, riding and fastening of all ships, rafts, cribs, river craft, barges and other vessels and steamboats resorting to the said harbour; and the said harbour master of Montreal shall, in like manner, superintend and enforce whatever shall relate to the said harbour or to the vessels therein,—and, before entering upon the duties of his office, shall take and subscribe an oath before one of the judges of the court of King's bench for the district of Montreal, in the following words, that is to say:—"I, A. B., do swear, that I will truly and impartially, to the best of my skill and understanding, execute the powers vested in me, by a law of this Province intituled, *An ordinance to suspend in part certain acts therein mentioned, and to establish and incorporate a trinity house in the city of Montreal*,"—which oath so taken and subscribed, shall be fyled of record, and remain in the office of the prothonotary of the said court of King's bench.

Duty of the harbour master of Montreal and his deputy.

XXVII. And be it further ordained and enacted, &c., that the said corporation may, if they or the majority of them, with the approbation of the Governor, Lieutenant-Governor, or person administering the government,

The corporation may, if necessary, employ a steam-

boat or decked vessel.

shall see it necessary or conducive to the purposes of this ordinance, and that the funds applicable thereto shall admit of the expense, provide a decked vessel, or sail-boat, or steamboat, not exceeding one hundred tons burthen, to be employed as need be in the examining the channel and navigation of the river St. Lawrence, and other navigable rivers within the jurisdiction of the corporation, in laying down or taking up buoys, or for other necessary purposes under this ordinance; and the master of such vessel may be appointed and removed, and re-appointed, or another appointed in his stead, by the Governor, Lieutenant-Governor, or person administering the government, and such salary and pay may be allowed to him and the persons employed under him, respectively, as the said corporation shall determine, with the approval and sanction of the Governor, Lieutenant-Governor, or person administering the government.

May purchase and hold lands &c., for the purposes of this ordinance.

See Tables.

In cases where owners of lands to be acquired cannot agree with corporation as to the price, reference to be had to arbitration.

XXVIII. And whereas it may be deemed necessary and expedient for the more safe, convenient and easy navigation of the river Saint Lawrence and other rivers within the jurisdiction of the trinity house of Montreal, that certain islands, lands and premises, pieces and parcels of lands within the said jurisdiction, should be purchased and vested in the said corporation of the said trinity house, for the purpose of erecting a suitable and convenient house in the city of Montreal for the use of the said corporation, and for erecting light-houses, beacons, and land marks:—Be it therefore ordained and enacted, &c., that the said corporation, at any time or times hereafter, may, and they are hereby authorized and empowered to contract, compound, compromise and agree with the proprietors and occupiers of the said islands, land and premises, pieces and parcels of land, or any part of them, for the purchase of them; and it shall be lawful for all persons whomsoever, bodies politic and corporate, guardians, curators, fiduciary legatees, and trustees whatsoever, for themselves, their heirs and successors, for and in behalf of those whom they represent or for whom they act, whether infants, lunatics, idiots, *femes covert*, or other person or persons whomsoever, who are or shall be seized of or possessed of, or entitled to such islands, land and premises, pieces and parcels of land as aforesaid, to contract for, sell, and convey the same to the said corporation of the said trinity house of Montreal, for such price and prices or consideration as may be agreed upon between them and the said parties respectively.

XXIX. And be it further ordained and enacted, &c., that in all cases where the said corporation, and the said owners and occupiers of the lands or real property aforesaid, or of any part thereof, shall not, by voluntary agreement, settle and determine the price and prices to be paid for the same or any part thereof, such price or prices shall be ascertained, fixed and determined by the award of arbitrators in the manner following, that is to say:—the said corporation shall and may nominate and appoint one arbitrator, being an indifferent and disinterested person, and the said owners and occupiers, respectively, shall and may nominate and appoint one other arbitrator, being also an indifferent and disinterested person; and the said two arbitrators, before proceeding to act as such arbitrators, shall and may appoint a third arbitrator, being also an indifferent and disinterested person; which said three arbitrators, after having been previously sworn before one of the justices of the court of King's bench for the district of Montreal, well, truly and honestly to execute the trust and duty of arbitrators as aforesaid, and after notices to the parties, respectively, of the time and place of their meeting, shall proceed to ascertain, fix and determine the price or

prices to be paid by the said corporation, for such islands, lands and premises, pieces and parcels of land aforesaid, or any part thereof; and the award of any two of the said arbitrators to be named and appointed as aforesaid, in and respecting the premises aforesaid, shall be final.

XXX. And be it further ordained and enacted, &c., that in case the said owner or occupier of the said islands, land and premises, pieces and parcels of land, or any of them, after due notice in this behalf from the said corporation, shall refuse or neglect to name and appoint an arbitrator as aforesaid, being an indifferent and disinterested person as aforesaid, or if the two arbitrators named and appointed as aforesaid, shall refuse and neglect to name and appoint a third arbitrator as aforesaid, it shall be lawful in such cases, respectively, for one of the justices of the court of King's bench for the district of Montreal, on application in this behalf to the said corporation, to name and appoint, instead of such owner or occupier so refusing or neglecting, an arbitrator on his behalf, or such third arbitrator, to supply the place of the nomination which ought to have been made by the two arbitrators previously appointed; and the arbitrators and third arbitrator as aforesaid, to be appointed by such justice as aforesaid, after having been respectively sworn by such justice, well, truly and honestly to execute the trust and duty of arbitrators and third arbitrator as aforesaid, shall have the same power and authority in the premises, and their award shall have the same force and effect, as if such arbitrators and third arbitrator had been named in the manner in the preceeding section prescribed as aforesaid.

When the owner shall refuse or neglect to appoint an arbitrator, the court of K. B. may appoint for him.

XXXI. And be it further ordained and enacted, &c., that on payment of the price or prices to be fixed and determined as aforesaid, or in case of refusal or neglect to accept the same, on the deposit thereof in the hands of the prothonotary of the said court of King's bench for the district of Montreal, for the use of the persons or persons entitled to the same, the right of property, title and interest, in and to such island or islands, land and premises, pieces or parcels of land, for which such price or prices shall be payable, shall be divested out of the owners and occupiers thereof, and the same shall become and be vested in the said corporation, for the purposes aforesaid.

On payment or deposit of the price, the lands to be vested in corporation.

XXXII. And be it further ordained and enacted, &c., that such price and prices as aforesaid, to be agreed upon, fixed and determined as aforesaid, may be paid from and out of the sum and sums of money appropriated for the purposes of this ordinance; but no such price or prices shall be agreed for or paid by the said corporation, without the sanction and approval of the Governor, Lieutenant-Governor, or person administering the government.

No purchase money to be paid without the sanction of the governor.

XXXIII. And be it further ordained and enacted, &c., that any person wilfully removing or destroying, or maliciously procuring to be removed or destroyed, any buoy, floating-light, beacon or land-mark, placed for the purpose of navigation in the river or on the shores of the river Saint Lawrence, or on other rivers and shores within the jurisdiction of the trinity house of Montreal, (lake Saint Peter inclusive,) every such person, for every such offence, upon conviction by one competent witness before the trinity house of Montreal, shall forfeit and pay a penalty not exceeding two hundred and fifty pounds, currency, with costs of suit, and be committed to the common gaol of the district of Montreal for a time not exceeding twelve calendar months, by a warrant under the hand of the master, deputy master and wardens, or any three of them of whom the master or deputy master shall be one, and of the registrar, and the seal of the corporation.

Punishment of persons destroying or removing buoys or beacons.

See also, 4 & 5 Vict. cap. 26 s. 8.

Monies collected by the naval officer under act 45 Geo. 3, cap. 12, upon vessels coming to the port of Montreal to be paid to the trinity house of Montreal.

See Tables.

XXXIV. And be it further ordained and enacted, &c., that all monies collected by the naval officer of the port of Quebec, under and by virtue of the twenty-fourth section of the said act passed in the forty-fifth year of the reign of his late Majesty King George the Third, on vessels proceeding to the port of Montreal only, and paid by the said naval officer to Her Majesty's receiver general, that is to say;—the additional sum of two shillings and six pence, currency, per foot, received by the said naval officer from the master or commander of every ship or vessel arriving at Quebec from sea, and proceeding to the port of Montreal,—and the additional sum of two shillings and six pence, currency, per foot, levied upon every ship or vessel sailing from Quebec outward, but coming from the port of Montreal,—and also the tonnage duty, as specified in the said twenty-fourth section of the said act, on such vessels,—shall, and every part of the said sums of money so collected, be for the use and benefit of the trinity house of Montreal, for improving the navigation of the river Saint Lawrence, between the first rapid above the city of Montreal and the basin of Port Neuf aforesaid, and for other purposes authorized by this ordinance, and may from time to time be paid to them by warrants to be issued by the Governor, Lieutenant-Governor, or person administering the government of this Province, directed to the said receiver general, to defray the expence incurred for such of the objects aforesaid, as may have been undertaken by and with the sanction and approval of the Governor, Lieutenant-Governor, or person administering the government.

Registrar and treasurer allowed $2\frac{1}{2}$ per cent. on all monies received by him.

See Tables.

XXXV. And whereas it is just and reasonable, from the risk and responsibility attending the receiving and paying of public monies, that a proper allowance should be made to the registrar and treasurer of the said trinity house of Montreal, on monies that shall or may come into his hands:—Be it further ordained and enacted by the authority aforesaid, that from and after the passing of this ordinance, the registrar and treasurer of the trinity house of Montreal for the time being, shall be and he is hereby authorized, to charge two and a half per cent. upon all monies received by him.

Registrar and treasurer, and harbour master may appoint deputies in case of illness.

XXXVI. And be it further ordained and enacted, &c., that it shall be lawful for the registrar and treasurer of the trinity house of Montreal, and for the harbour master of Montreal, appointed under the authority of this ordinance, by an instrument in writing under their hands and seals, to appoint each some fit and proper person to be their deputy; and in case of the illness or necessary absence of the said registrar and treasurer, or harbour master, such deputy shall be vested with and may exercise, all and every the powers and authorities which are by law vested in the said registrar and treasurer, or harbour master.

Exemption from serving as jurors.

See Tables.

XXXVII. And be it further ordained and enacted, &c., that the members and officers of the said trinity house of Montreal shall be exempt from serving as constables or jurors.

Fines to be paid to receiver general.

See Notes on s. 25.

XXXVIII. And be it further ordained and enacted, &c., that all the fines and penalties recovered under this ordinance, (excepting such part thereof as thereby is allowed to private prosecutors, and excepting fines and penalties recovered from branch pilots,) shall be paid to the receiver general and be applied as aforesaid; and the due application of the same and of the monies above mentioned, pursuant to the directions of this ordinance, shall be accounted for to Her Majesty, Her Heirs and Successors, through the lords

commissioners of Her Majesty's treasury, for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct.

XXXIX. And be it further ordained and enacted, &c., that nothing herein contained shall extend or be construed to extend to affect the rights of Her Majesty, Her Heirs and Successors. Rights of Her Majesty saved.

XL. And be it further ordained and enacted, &c., that this ordinance shall be deemed and taken to be a public ordinance, and shall as such be judicially taken notice of by all judges, justices of the peace and by all persons whomsoever, without being specially pleaded. A public ordinance.

7. ST. LOUIS RAPIDS.

An Act to repeal an Act therein mentioned, concerning the Inspector and Measurers of Rafts and Scows and the Pilots thereof, between Chateauguay and Montreal, and for other purposes therein mentioned. 6 Will. 4. Cap. 20.

WHEREAS it is expedient to repeal the act hereinafter mentioned, and to make other legislative provision with regard to rafts and scows navigating between Chateauguay and Montreal:—Be it therefore, &c., that a certain act, &c., (48 Geo. 3. Cap. 13.) shall be and is hereby repealed. Preamble. 48 Geo. 3. cap. 13. repealed.

II. And be it further enacted, &c., that if any raft or crib of wood or timber shall get aground in the St. Louis rapids, in the channel by which rafts and cribs commonly pass, the owner thereof shall clear the channel and leave it free, within thirty-six hours after the obstruction shall have first occurred; under a penalty of forty shillings, currency, for each day during which such raft or crib shall so remain aground in the said channel, one moiety whereof shall go to His Majesty, and the other moiety to the prosecutor; and such penalty shall be recoverable before any one or any two justices of the peace, by the seizure and sale of the defendant's goods and chattels in default of payment immediately after he shall have been condemned on the oath of one or more credible witnesses. If any raft or crib get aground in the St. Louis rapids, the owner shall clear the channel within a certain time. Penalty for neglect.

8. PILOTS DETAINED IN QUARANTINE.

An Act to make provision for indemnifying Pilots while detained in Quarantine. 4 Will. 4. Cap. 25.

WHEREAS considerable loss and inconvenience have been experienced by the pilots in charge of vessels coming from sea to the quarantine station at Grosse Isle, in consequence of the absence of all legislative enactment to empower them to claim indemnity for the time that they are detained in quarantine at the place aforesaid:—Be it therefore enacted, &c., that from and after the passing of this act, any pilot in charge of a vessel arriving in this Province, who shall be detained in quarantine at Grosse Isle, shall be entitled to ten shillings, currency, for every day that he shall be so detained, which sum shall be paid him by the master or consignee of such vessel, in the same manner as pilotage is now directed by law to be paid to pilots for and below the harbour of Quebec. Preamble. Pilots indemnified for loss of time, while detained in quarantine.

9. QUARANTINE.

35 Geo. III,
Cap. 5.

An Act to oblige Ships and Vessels coming from places infected with the Plague or any Pestilential Fever or Disease, to perform *Quarantine*, and prevent the communication thereof in this Province.

Preamble.

See *Tables*.

Ships bound to perform quarantine when notice is given by proclamation.

No person, goods, &c. shall come from or go on board any vessel performing quarantine without licence.

All such ships, persons and goods, &c. to be liable to the order of the Governor respecting quarantine.

The masters of all vessels arriving after proclamation for performance of quarantine, shall give an account of the place from

WHEREAS it is necessary that provision be made by the legislature of this Province, for obliging ships and persons coming into the same by the river Saint Lawrence, from any country or place where the plague or any pestilential fever or disease may prevail, to perform *quarantine*, and remain at such part of the said river St. Lawrence, or the lands adjoining to or islands in the said river, and for such time, as may be judged requisite to prevent the communication of diseases that may endanger the lives of His Majesty's subjects :—Be it therefore enacted, &c., that all ships and vessels arriving and all persons, goods and merchandizes whatsoever coming or imported into any port or ports in this Province, by the river St. Lawrence, from any place from which His Excellency the Governor, Lieutenant-Governor, or person administering the government, by and with the advice and consent of His Majesty's executive council, shall judge it probable that any plague or any pestilential fever or disease may be brought, shall be obliged to make their *quarantine*, that is to say,—remain and continue at such part of the river St. Lawrence, and in such place and places, and for such time and in such manner, as shall or may from time to time be appointed and directed by the Governor, Lieutenant-Governor, or person administering the government of this Province, by his or their order or orders, made in and by advice of the executive council aforesaid, and notified by proclamation published in the Quebec Gazette ; and that until such ships, vessels, persons, goods and merchandizes shall have respectively performed and be discharged from such *quarantine*, no such person, goods or merchandizes, or any of them, shall come or be brought on shore, or go or be put on board any other ship or vessel, in any place within this Province, unless in such manner and in such cases and by such licence, as shall be directed or permitted by such order or orders made by the Governor, Lieutenant-Governor, or person administering the government, with the advice of the said executive council ; and that all such ships and vessels and the persons or goods coming or imported in or going or being put on board the same, and all ships, vessels, boats and persons receiving any goods or persons out of the same, shall be subject to such orders, rules and directions concerning *quarantine* and the prevention of infection, by any way or means aforesaid, as shall be made by the Governor, Lieutenant-Governor, or person administering the government, with the advice and consent of the executive council aforesaid, and notified by proclamation published in the Quebec Gazette aforesaid, and more especially respecting the opening and airing all goods, apparel and merchandize,

II. And to the end that it may be better known whether any ship or vessel be actually infected with the plague or any pestilential fever or disease, or whether such ship or vessel or the passengers, mariners or cargo, coming and imported in the same, are liable to any orders touching quarantine :—Be it further enacted, that when any country or place is or shall be infected with the plague or any pestilential fever or disease, or when any order or proclamation shall be made as aforesaid, concerning quarantine and the prevention of infection as aforesaid,—as often as any ship or vessel

shall attempt to enter into the harbour of Quebec, or the same to approach within sixty leagues thereof, the master or captain of the said port, or such other person or persons as shall, by warrant under the hand and seal of the Governor, Lieutenant-Governor, or person administering the government, be authorized to see quarantine duly performed and this act carried into execution, shall go off or cause some other person, to be by such authorized officer appointed for that purpose, to go off to such ship or vessel so coming to or towards the harbour aforesaid,—and such person, so authorized and appointed as aforesaid, shall at a convenient distance from such ship or vessel, demand an account from the commander, master or other person having charge of such ship or vessel, who shall, upon such demand, give an account of the following particulars, that is to say,—the name of such ship or vessel, and of the commander or person having charge thereof, at what place or places the cargo was taken on board, what place or places the ship or vessel touched at in her voyage, whether such place or places or any and which of them was infected with the plague or any pestilential fever or disease, how long such ship or vessel had been in her passage, how many persons were on board when the said ship or vessel sailed, whether any and what persons during that voyage on board such ship or vessel had been or may be then infected with the plague or any pestilential fever or disease, whether any and how many persons died during the voyage and of what disorder, what ships or vessels he or any of his ship's-company or passengers with his privy went on board or had any of their company come on board his ship or vessel in the voyage, and to what place such ships or vessels belonged, and also the true contents of his lading to the best of his knowledge :—and in case it shall appear upon such examination or otherwise, that any person then on board such ship or vessel shall, at the time of such examination, be actually infected with the plague or any pestilential fever or disease, or that such ship or vessel is obliged in virtue of this act or any order or direction made as above declared, to perform quarantine, in such case it shall and may be lawful for the said captain of the port of Quebec, or person and persons so authorized as above said, and all others whom they may call to their aid and assistance, and they are hereby required, to oblige such ship or vessel to go and repair to such place or places as shall be appointed by the Governor, Lieutenant-Governor, or person administering the government, with the advice of the said executive council, for performance of quarantine, and to use all necessary means for that purpose, be it by firing of guns upon such ships or vessels, or any kind of force or violence whatsoever; and in case any such ship or vessel shall come from any place visited with the plague or any pestilential fever or disease, or have any person on board actually infected with such disease, and the commander or other person having charge of such ship or vessel, shall conceal the same, such commander, master or other person having charge as aforesaid, shall be adjudged guilty of felony, and shall suffer death as in cases of felony without benefit of clergy ;—and in case any such commander, master or other person having command as aforesaid, shall, upon such demand made as aforesaid, not make a true discovery in any one of the particulars aforesaid, or shall neglect or refuse to perform such quarantine, and obey all and every order and direction which may from time to time be to him signified by the said captain of the port of Quebec or other person authorized for that purpose, touching and respecting the quarantine so to be observed and in all respects truly performed, and more particularly of the persons, goods or effects of what nature soever

whence they come, and the health of persons on board, &c.

The account to be rendered, &c.

All vessels liable to perform quarantine, to obey the order in that respect given, and repair to places appointed for the performance of quarantine.

Master concealing the plague, &c., guilty of felony, and liable to judgment of death.

Penalty on any master refusing or neglecting to obey any order respecting the due performance of quarantine.

going to or coming from any vessel that may be under orders for performance of quarantine, he shall forfeit and pay a penalty and sum not less than five pounds currency, and not exceeding one hundred pounds currency, for every such offence, to be paid and accounted for as by this act directed, and the same may be sued for and recovered by plaint or information on the oath of one or more credible witness or witnesses, in any of His Majesty's courts of record in this Province.

Governor, &c., may appoint a physician or surgeon, to examine all ships suspected of having infected persons on board.

And to report his opinion thereon.

Penalty for resisting.

Penalty on masters suffering persons to go on shore after orders to perform quarantine.

Persons quitting a ship under quarantine without licence may be compelled to return.

III. And be it further enacted, that it shall and may be lawful for the Governor, Lieutenant-Governor, or person administering the government, to appoint such physician or surgeon as to him may seem meet, to inspect all or any vessel that may arrive in the river St. Lawrence after proclamation or notification as aforesaid, and may have on board or may be suspected of having on board any person or persons infected with the plague or any pestilential fever or disease; and it shall and may be lawful for every such physician or surgeon, and he is hereby authorized and required to enter on board all and every ship and vessel coming into this Province under the circumstances abovesaid, and to make strict search, examination and enquiry into the health, state and condition of the master, passengers and mariners of such vessels respectively, and to report his or their opinion thereon without delay, to the Governor, Lieutenant-Governor or person administering the government; and if any person or persons shall presume to prevent or obstruct any such physician or surgeon in performing the duties required of him under this Act, such offender shall forfeit for every such offence a penalty and sum not exceeding one hundred pounds, nor less than five pounds, to be recovered, paid and applied as aforementioned.

IV. And be it further enacted, that if any commander or master or other person taking the charge of any ship or vessel so coming from any place that is or may be suspected to be infected as aforesaid, and who may be ordered to perform the quarantine, shall himself, or shall knowingly permit or suffer any seamen belonging to such ship or any passenger or other person being therein, to quit such ship or vessel by going on shore or by going on board any other ship, boat or vessel whatsoever, during the time of the quarantine, and until such ship shall be discharged therefrom, without special licence first had and obtained according to this act, then and in all and every such case and cases, every such commander or master or other person taking the charge of any such ship or vessel as aforesaid, shall forfeit for every such offence a penalty and sum not exceeding three hundred pounds, nor less than fifty pounds, current money of this Province; and the same may be sued for and recovered in any of His Majesty's courts of record, in manner as any penalty under this act may be prosecuted for and recovered, and the monies therefrom proceeding, paid and applied as penalties are directed by this act.

V. And be it further enacted, that if any person or persons whatsoever who may be on board any ship or vessel after the master or person having charge thereof shall be ordered and directed to perform quarantine as abovesaid, shall quit such ship or vessel by coming on shore or by going on board any other ship or vessel before or while under such quarantine, without special licence as above said, it shall and may be lawful for the person or persons appointed to see the quarantine duly performed, to compel, and in case of resistance, by force and violence to oblige such person and persons to return on board such ship or vessel, and there to remain during the time of quarantine; and all and every person who shall presume to go on board

and return from any ship or vessel under order to perform quarantine as aforesaid, without such licence as aforesaid, shall and may be compelled, and in case of resistance may by force and violence be obliged by the persons aforesaid to return on board such ship or vessel, and there to remain during the time of quarantine; and the master of such ship or vessel shall be and is hereby obliged to keep and maintain such person and persons on board accordingly.

VI. And be it further enacted, that in case of any person quitting a ship or vessel so under quarantine as aforesaid, or going on board and returning without licence, besides being obliged to return on board and there remain, he shall forfeit and pay a fine and sum not less than five pounds and not exceeding fifty pounds, to be recovered by information in any of His Majesty's courts of record in this Province in manner aforesaid, and paid and applied as other penalties by this act imposed; and for want of goods or chattels, lands or tenements on which such fine may be levied and recovered, the person so adjudged to pay the same may be committed to the common gaol, and there to remain for a period of time not exceeding three months.

VII. And be it further enacted, that when and so often as any boat, canoe or skiff shall be found with any ship or vessel so under order for performance of quarantine, without licence from the captain of the port or person authorized to see the said quarantine performed, he or they may seize and take the same, and the said boat, skiff or canoe shall become forfeited to His Majesty, and may be so adjudged by two of His Majesty's justices of the peace, on the oath of one or more credible witnesses.

VIII. And be it further enacted, that all and every person taking upon himself the charge and trust of executing any warrant or order touching and respecting the due performance of quarantine, and the execution of this act or any part thereof, who shall wilfully neglect the execution of the said trust, or who shall for interest, gain, profit or favor, openly or by connivance suffer or permit this act or any part thereof, or any order legally made under the same respecting the premises, to be evaded or transgressed, shall and may be prosecuted in any court of record in manner as aforesaid, and upon conviction shall be liable to suffer a fine of not less than ten pounds, and not exceeding two hundred pounds, currency of this Province, or imprisonment not exceeding twelve months, as the court before which the same suit may be prosecuted, may adjudge in that behalf; one moiety of all and every such fine shall be paid to the informer or person prosecuting for the same, any thing herein contained to the contrary notwithstanding.

IX. And be it further enacted, that all and every penalty or forfeiture that may be prosecuted for and recovered under this act, shall be paid to His Majesty, His Heirs and Successors, for the public uses of this Province, and the support of the government thereof, except in such cases where the penalties are by this act otherwise applied; and that the due application of the same shall be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury for the time being, in such manner as His Majesty, His Heirs and Successors may direct.

X. And be it further enacted, that after quarantine shall have been duly performed by any ship or vessel, and the persons therein shall have conformed to the proclamation and orders that may be issued as above mentioned, and the several rules and orders that may in that respect be made under this act, and upon proof on oath or otherwise being made thereof to the satisfac-

And persons going on board without licence may be compelled to return and remain on board.

Penalty on persons coming on shore or going on board and returning without licence. For want of payment they may be imprisoned.

Boats going to any ship, &c., without licence to be seized and forfeited.

Penalty on officers neglecting the execution of their trust under this act.

Penalties and forfeitures how to be sued for, recovered and accounted for.

After performance of quarantine, ships shall be cleared.

tion of the said Governor, Lieutenant-Governor, or person administering the government aforesaid, in His Majesty's said executive council, and that such ship or vessel and all and every the person and persons therein, have duly performed the quarantine and orders aforesaid, and that the ship or vessel, and all the persons on board, and the goods and merchandize therein laden, are free from infection,—then and in every such case, the commander, master or person having charge of such ship or vessel, shall obtain a passport and discharge from the quarantine imposed, and the restraints by this act laid to support the same, and which passport and discharge shall be granted under the hand and seal of the Governor, Lieutenant-Governor, or person administering the government, and shall free the said ship or vessel and all and every person and persons therein or thereunto belonging, and the goods and merchandize that may be laden or have been imported in the said ship and vessel, from all further restraint or detention during that voyage by reason of any matter or thing in this act contained.

10. SEAMEN, WAGES OF.

6 Will. IV.
Cap. 28.

An Act to provide less expensive means for the recovery of Wages due to Seamen of Vessels belonging to or registered in this Province.

Preamble.

See Tables.

How such seamen are to proceed for the recovery of their wages.

Proof.

Amount to be levied if not paid.

WHEREAS the masters and owners of vessels belonging to or registered in this Province, as well as the seamen of such vessels, are frequently, in case of disputes arising between them relative to wages, exposed to great inconvenience, expense and delay :—For remedy thereof, be it enacted, &c., that in all cases of wages not exceeding twenty pounds, sterling, which shall be alleged to be due and payable to a seaman, for his service in any such ship or vessel belonging to or registered in this Province as aforesaid, it shall be lawful for any two justices of the peace, residing near to the place where such vessel shall have ended her voyage, cleared at the custom house, or discharged her cargo, or near the place where the master or owner upon whom, respectively, the claim is made, shall be or reside,—upon complaint on oath to be made to such justices by any such seaman or on his behalf, to summon such master or owner to appear before him, to answer such complaint ; and upon appearance of such master or owner, or, in default thereof, on due proof of his having been so summoned, such justices are hereby empowered to examine upon the oath of the respective witnesses of the parties (if there be any) or upon the oath of either of the parties, in case one of the parties should require such oath from the other, before such justices of the peace, touching the complaint and amount of wages due, and to make such order for the payment thereof as shall to such justices appear reasonable and just ; and in case such order shall not be obeyed within twenty-four hours next after the making thereof, it shall be lawful for such justices to issue their warrant to levy the amount of the wages awarded to be due, by the distress and sale of the goods and chattels of the party on whom such order for payment shall be made, rendering to such party the over-surplus (if any shall remain) of the produce of the sale, after deducting therefrom all the charges and expenses incurred by the seaman in the making and hearing of the complaint, as well as those incurred by the distress and levy, and in the enforcement of the justices' order ; and in case sufficient distress cannot be found, it shall be lawful for

such justices of the peace to cause the amount of such wages and expenses to be levied on the ship, in respect of the service on board which the wages are claimed, or the tackle and apparel thereof; and if such ship shall not be within the jurisdiction of such justices, then they are hereby empowered to cause the party upon whom the order for payment shall be made, to be apprehended and committed to the common gaol of the district or inferior district, there to remain for a time not less than one, nor more than three, calendar months, under each such condemnation.

II. And be it further enacted, &c., that if any suit for the recovery of a seaman's wages shall be instituted against any such ship or the master or owner thereof, in the court of vice-admiralty, or against the master or owner in any court of record in this Province, and it shall appear to the judge or judges of such court, in the course of such suit, that the plaintiff might have had as effectual a remedy for the recovery of his wages, by complaint to two justices of the peace as hereinbefore provided, then and in every such case, it shall be lawful for such judge or judges, and he or they is or are hereby required to certify to that effect, and thereupon no costs shall be awarded to the plaintiff.

Remedy against the ship's tackle, &c.
If any suit is brought in the admiralty, &c., which might have been brought under this act, the plaintiff to have no costs.

11. SEAMEN, DESERTING, &c.

See Class C. No. 8, page 56.

12. FISH AND OIL, INSPECTION OF.

An Ordinance to provide for the Inspection of Fish and Oil. 2 Vict. (3.)
(Temporary.) Cap. 65.

WHEREAS the trade of this Province would be essentially promoted, if means were provided for distinguishing such fish and oil as are well cured and prepared and fit for foreign markets, from such as may be imperfectly cured and unmerchantable:—Be it therefore ordained and enacted, &c., that it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government, by a commission under his hand and seal, to appoint one or more fit and proper persons to be inspectors or inspectors of fish and oil, in and for each of the cities of Quebec and Montreal, for the purposes of this ordinance.

Preamble.

Governor may appoint inspectors of fish and oil.

II. And be it further ordained and enacted, &c., that each person so appointed an inspector of fish and oil, shall before entering upon the duties of his office, give security by bond to Her Majesty, and to the satisfaction of the Governor, Lieutenant-Governor, or person administering the government, in the sum of five hundred pounds, currency, for the due performance of his said duties, and shall take and subscribe the following oath before one of the justices of the court of King's bench for the district;—"I, A.B., inspector of fish and oil, in and for the city of _____ do solemnly swear, that to the best of my judgment, skill and understanding, I will faithfully, honestly and impartially fulfill, execute and perform the office and duty of such inspector, according to the true intent and meaning of the ordinance passed in the second year of Her Majesty's reign, intituled, *An ordinance to provide for the inspection of fish and oil;*" and such oath shall remain of record with the prothonotary of such court, who

Inspectors to give security and take an oath of office.

See Tables.

Oath.

To remain of record in the

office of the
prothonotary.

shall, if so required, furnish a certificate thereof to the inspector taking the same, on payment of two shillings and six pence, currency, and no more; and any person requiring such inspector to inspect any fish or oil may require him to produce such certificate, and a certificate from some law officer of the Crown that he has given the security hereby required, before he shall be entitled to any fee for the inspection of such fish or oil.

Inspector to
provide himself
with branding
irons.

III. And be it further ordained and enacted, &c., that each inspector appointed under the authority of this ordinance, shall provide himself with sufficient branding irons, for the purpose of branding such casks and boxes as may by him be inspected in pursuance of this ordinance.

Duty of in-
spector as re-
gards pickled
or salted fish.

IV. And be it further ordained and enacted, &c., that it shall be the duty of each such inspector to see that all salmon, mackerel, shad, herring and all kinds of split, pickled or salted fish, of any kind, intended for barrelling and submitted to him for inspection, have been well struck with salt or pickle, in the first instance, and preserved sweet, free from taint, rust, oil and damage of every kind; and no other fish shall be branded by him as *inspected* and *merchantable*.

Branding and
packing of fish
for exporta-
tion.

See *Tunes*.

V. And be it further ordained and enacted, &c., that no fish of the description hereinabove mentioned, intended for exportation, shall be branded as *inspected* and *merchantable*, unless it be well and properly packed, in good, tight and substantial tierces, half tierces, barrels or half barrels; nor shall any pickled or salted salmon be so branded, except in tierces containing three hundred pounds, exclusive of salt and pickle,—or in half tierces containing one hundred and fifty pounds, exclusive of salt and pickle,—or in barrels containing two hundred pounds, exclusive of salt and pickle,—or in half barrels containing one hundred pounds, exclusive of salt and pickle,—avoirdupoise weight; nor shall any other pickled or salted fish be so branded, if packed in barrels containing less than twenty-eight gallons, or in half barrels less than fourteen gallons wine measure.

Small fish
packed with
dry salt.

VI. And be it further ordained and enacted, &c., that no small fish which are usually packed whole with dry salt, shall be so branded as aforesaid, unless they are packed in good casks as hereinabove mentioned, packed close, edgewise in the cask, and well salted with good coarse wholesome salt; nor unless the casks are filled full of fish and salt, no more salt being put with the fish than may be necessary for their preservation.

Red and
smoked her-
rings.

VII. And be it further ordained and enacted, &c., that no red and smoked herrings shall be so branded, unless they be well and sufficiently cured and saved, and carefully and properly packed in good and substantial barrels, half barrels, kegs or boxes.

All fish to be
branded ac-
cording to
its quality.

VIII. And be it further ordained and enacted, &c., that it shall be the duty of each inspector, when called upon to inspect any fish of the descriptions above mentioned, carefully and attentively to examine each and every cask submitted to him for inspection; and if such fish be of a good quality, in wholesome pickle and clean salt, and in every way in good order, free from taint, rust, oil and damage, well and properly packed in good, tight, and substantial tierces, half tierces, barrels or half barrels, kegs or boxes, as hereinabove provided, the inspector shall brand on the heads or butts of each cask or box so by him inspected, in large and legible letters, the words *salmon*, *mackerel* or *herrings*, (as the case may be,) *Quebec* or *Montreal*, (as the case may be,) *inspected*, *merchantable*, with the initials of the christian name, and the surname at full length, of the inspector, and the

year and month of the inspection ; and such as shall be found of an inferior or second quality, or carelessly or badly packed, or in insufficient casks, kegs or boxes, or not in every respect as hereinabove required, shall by such inspector be branded forthwith on the head or butt of the cask, keg or box with the word *rejected*, in large and legible letters, (instead of the words *inspected*, *merchantable*, as hereinabove mentioned,) and with the initials of the christian name, and the surname at full length, of the inspector, and the place, year and month of inspection as above mentioned.

IX. And be it further ordained and enacted, &c., that each of the said inspectors shall in like manner, when called upon, carefully inspect all the sorts of oil hereinafter mentioned, and shall brand the casks in which such oil may be contained with the words *seal oil*, *whale oil* or *fish oil*, as the case may be, the initials of the christian name, and the surname at full length, of the inspector, the place, year and month of inspection, and the word *merchantable*, or the word *rejected*, as the case may be, in large and legible letters : Provided always, that no cask shall be so branded *merchantable*, which shall contain any thing but clear oil, of good quality, free from soot or grounds.

All oil to be branded according to its quality.

X. And be it further ordained and enacted, &c., that in case of any dispute between an inspector and the person who shall have required him to inspect any fish or oil, as aforesaid, concerning the inspection thereof, such dispute shall be determined as follows, that is to say :—any two justices of the peace, on request to them made by the parties, or either of them, shall issue a summons under their hands to any three disinterested persons of skill and integrity (one of whom shall be named by the inspector, another by the person who shall have required the inspection of such fish or oil, and the third by such justices of the peace,) requiring the said persons immediately to examine such fish or oil, and to report their opinion of the quality and condition thereof, under oath (which oath either of the said justices of the peace is hereby authorized and required to administer,) and their determination shall be final and conclusive, whether approving or disapproving the judgment of such inspector, who shall immediately conform to such determination, and brand each and every cask or box accordingly ; and if the opinion of the inspector be confirmed by such determination, the reasonable costs and charges of obtaining the same, to be taxed by such justices of the peace, shall be paid by the party requiring the inspection, otherwise by the inspector : Provided always, that all fish and oil submitted to any inspector for inspection, shall be branded by him according to his judgment thereof, or such determination as aforesaid, and shall not (either with or without the consent of the inspector) be withdrawn from inspection in any case, without being so branded ; under a penalty of twenty shillings currency for each cask, box or keg so withdrawn without being branded, to be paid by the person so withdrawing the same.

Proceedings in case of dispute between an inspector and a person who shall have required him to inspect any fish or oil.

Proviso.

XI. And be it further ordained and enacted, &c., that if any inspector shall brand any cask, keg or box of any description of fish or oil mentioned in this ordinance, the contents of which he has not inspected according to the true intent and meaning of this ordinance,—or if he shall knowingly permit any other person or persons to use his brands, or to withdraw any fish or oil submitted for inspection, before it shall have been branded, he shall, on being thereof convicted, incur a penalty of five shillings, currency, for each cask, keg or box so branded or so withdrawn, contrary to the provisions of this ordinance, and shall forthwith be removed from office.

Penalty on inspector falsely branding, or allowing others to use his brands, or to withdraw any fish or oil until branded.

Penalty on persons wilfully obliterating brand marks.

XII. And be it further ordained and enacted, &c., that any person, other than an inspector appointed under this ordinance, who shall wilfully efface or obliterate, or cause to be effaced or obliterated, from any cask, keg, or box, having undergone inspection, all or any of the brands or marks thereupon imprinted or branded by any inspector, or shall fraudulently impress or brand upon any cask, keg or box, any of the brands or marks by this ordinance required to be branded on casks, kegs or boxes containing fish or oil so inspected as aforesaid, or shall empty any cask, keg or box already branded, in order to put other fish or oil therein for sale or exportation, shall, for each such offence, incur a penalty not exceeding twenty pounds currency, and may, on conviction, be committed to prison until such penalty be paid.

Inspector not permitted to trade in fish or oil.

XIII. And be it further ordained and enacted, &c., that it shall not be lawful for any inspector appointed under the authority of this ordinance, to trade in, buy or sell, directly or indirectly, (otherwise than for the consumption of himself and family,) fish or oil of any kind or description to which this ordinance relates, under the penalty of one hundred pounds, currency, for each act of contravention or disobedience to the provisions of this section, and on pain of being dismissed from office.

Penalty.

Branding and packing of cod-fish.

XIV. And be it further ordained and enacted, &c., that no dried codfish shall be branded by any inspector under this ordinance, unless it shall have been carefully culled by him, nor unless it shall be well screwed and packed, under his direction and in his presence, in good and substantial hogsheads or casks, made of oak, of the dimensions hereinafter specified, with heads and butts of pine, spruce, or other soft wood, proper for the purpose; and such hogsheads or casks as contain dried codfish of a merchantable quality, or such as are usually termed *Madeira*, shall, in addition to the brands above mentioned, be branded in like manner with the word *Madeira*, in large and legible letters; and such as contain dried codfish of a second or inferior quality, shall in like manner be branded with the words *West India*, in large and legible letters; but no inferior sort to that last mentioned shall be branded.

Dimensions of hogsheads or casks in which dried cod-fish shall be packed.

XV. And be it further ordained and enacted, &c., that no hogshead or cask, in which dried codfish so inspected shall be screwed and packed, shall be so branded as aforesaid, unless it be of the following dimensions and contain the following quantities, that is to say:—hogsheads or casks of the first class to be forty-two inches in length of stave, the heads and butts to be thirty-two inches in diameter between the chimes, and to contain at least eight quintals of fish; casks of the second class to be also forty-two inches in length of stave, the heads or butts to be twenty-two inches in diameter between the chimes, and to contain at least six quintals; casks of the third class to be also forty-two inches in length of stave, the heads or butts twenty-two inches in diameter between the chimes, and to contain at least four quintals: Provided always, that nothing herein contained shall extend to prevent the branding of casks of smaller dimensions than those above mentioned, if the fish therein shall have been culled, screwed and packed in the presence of the inspector, as aforesaid; but the weight of fish therein shall be marked on such cask by the inspector, in addition to the other brand marks.

Proviso.

Dried cod-fish may be inspected in

XVI. Provided also, and be it further ordained and enacted, &c., that nothing in this ordinance shall prevent any dried codfish, in boxes or in bulk, from being inspected, or the inspector from giving a certificate stating

of culled and inspected, and shipped on board boxes or in bulk.

And be it further ordained and enacted, &c., that if any inspector find more kinds or qualities intermixed in the same cask, which may be well cured and otherwise in good order, it shall nevertheless upon such cask the word *rejected*, as above provided, be marked, both in large and legible characters. Fish intermixed in the same cask, how to be branded.

And be it further ordained and enacted, &c., that any inspector, who neglect or refuse, on application to him made personally, or in writing at his dwelling-house or office, on lawful days between sunrise and sunset, by any proprietor in possession of fish or oil, (unless employed by the owner of such application in inspecting fish or oil,) immediately, or within two hours thereafter, to proceed to such inspection, shall for every such neglect or refusal, on being thereof convicted, forfeit and pay to such person so applying, the sum of five pounds, currency, over and above the charges occasioned by such refusal or neglect, to the party applying as aforesaid. Penalty on inspector neglecting or refusing to inspect fish or oil when required.

XX. And be it further ordained and enacted, &c., that each inspector appointed under the authority of this ordinance, shall, for the services which may be by him performed as such, be entitled to the following rates of allowances from the persons employing them and no more; that is to say:—for each tierce inspected and branded, one shilling and three pence, currency; for each half tierce so inspected and branded, nine pence, currency; for each barrel, one shilling, currency; for each half barrel, nine pence, currency; for each box containing red or smoked herrings, two pence, currency; for each quintal of dried cod-fish, culled and inspected, one penny, currency; for each draught of green fish, three pence, currency; for his attendance at the packing and screwing of each hogshead or other cask of dried cod-fish, and for branding the same in pursuance of this ordinance, four pence currency, in addition to his allowance for inspecting and culling the fish therein; for each cask of oil containing twenty-eight gallons inspected and branded, one shilling, currency; for each tierce of oil, one shilling and one penny, currency; for each hogshead of oil, one shilling and three pence, currency; and for each puncheon of oil, one shilling and six pence, currency:—and all such rates and allowances shall be over and above the expense of cooperage, and washing, cleaning and repacking any salmon or fish, which such inspector may *bonâ fide* incur in the due and faithful execution of his duty:—and for liming or white-washing with lime the heads or butts of any vessel of any description containing oil, the inspector having performed such duty shall be entitled to six pence, currency, and no more. Inspectors' fees.

XX. Provided always, and be it further ordained and enacted, &c., that it shall be lawful for any person causing his fish or oil to be inspected, to employ at his own cost and charges, a cooper to attend upon and assist the inspector in the performance of his duty, in which case the inspector shall not be allowed any charge for cooperage; and the cooper so employed shall be governed and guided solely by the directions which he shall receive from the inspector, with respect to any fish or oil by him inspected, and not by any other person whomsoever. Owner of fish or oil may employ a cooper at his own costs and charges.

XXI. And be it further ordained and enacted, &c., that such fines, forfeitures and penalties by this ordinance imposed, as do not exceed the sum of Penalties how recoverable.

How applied. ten pounds sterling, may be sued for and recovered in a summary way before the justices of the peace in the cities of Quebec and Montreal respectively, at their weekly sittings; and such as may exceed the said sum, may be recovered in any court of competent jurisdiction; and one moiety of all such fines, forfeitures and penalties shall belong to Her Majesty, for the public uses of the Province, and the other moiety shall belong to the informer, prosecutor or person suing for the same.

Such parts thereof as accrue to the Crown, how to be accounted for. XXII. And be it further ordained and enacted, &c., that such part of such fines, penalties and forfeitures as shall belong to Her Majesty, shall be paid into the hands of the receiver general, for the public uses of the Province, and shall be accounted for to Her Majesty, Her Heirs, and Successors, through the lords commissioners of Her Majesty's treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors may be pleased to appoint.

Prosecutions for penalties to be commenced within three months. XXIII. And be it further ordained and enacted, &c., that all suits or prosecutions for fines, penalties and forfeitures under this ordinance, shall be commenced within three months after the commission of the offence, and not afterwards.

The same as to other suits or actions under this ordinance. XXIV. And be it further ordained and enacted, &c., that if any suit or action shall be brought against any person or persons, for any thing done in pursuance of this ordinance, such suit or action shall be commenced within three months after the matter or thing done, and not afterwards; and the defendant or defendants in such suit or action, may plead the general issue and give this ordinance and the special matter in evidence; and if afterwards

General issue. judgment shall be given for the defendant or defendants, or the plaintiff or plaintiffs shall be nonsuited, or discontinue his or their suit or action after the defendant or defendants shall have appeared, then such defendant or defendants shall have treble costs against such plaintiff or plaintiffs, and have the like remedy to recover the same as any defendant or defendants hath or have in other cases to recover costs at law.

Treble costs.

13. WEIGHTS AND MEASURES.

39 Geo. III. **An Act for the better regulating the Weights and Measures of**
Cap. 7. **the Province.**

Preamble.

WHEREAS great inconveniences have arisen from the uncertainty of the weights and measures now used in this Province, and from the want of just and true standards, whereby the same might be adjusted and regulated; for remedy whereof, divers beams, weights and measures have been imported from London, under different votes of the assembly, and the same have been compared, examined and found just and true, and are of the following description: three pair of neat sight-hole box and scales adjusted to weigh from half a grain to one ounce; three pair of neat sight-hole scales adjusted to weigh from one dram to one ounce; six pair round sight-hole box scales adjusted to weigh from one ounce to four pounds; six round sight-hole box and counter beams fitted with brass chains and copper scales, proper for adjusting weights from fifty-six pounds downwards; four sets of *avoir-du-pois* brass weights from one dram to four ounces; four sets of like weights from a quarter of an ounce to four pounds; four sets of like weights, each set consisting of one of four, one of seven, one of fourteen,

one of twenty-eight and one of fifty-six pounds ; four sets of Troy weights in brass from half a grain to one ounce ; four sets of like weights from a quarter of an ounce to sixty-four ounces ; four sets of like weights, each set consisting of one of seven, one of fourteen and one of twenty-eight pounds ; four sets of wine measures in brass from one gill to one gallon ; four sets of Winchester measures in brass from one gill to one gallon ; four Winchester half bushels in brass ; three like measure bushels ; four sets of Canada measures in brass from a *poisson* to a *pot* ; four half minots of the like measure in brass ; three minots of the like measure in brass ; four English standard foot rules in brass ; four Paris standard foot rules in brass ; four english standard yards in brass ; four english standard ells in brass ;—

for the conveniency of regulating weights and measures in the different districts of this Province :—Be it therefore enacted, &c., that two sets of

the aforesaid beams, weights and measures, each consisting of—one pair of neat sight-hole box and scales adjusted to weigh from half a grain to one ounce,—one pair of neat sight-hole scales adjusted to weigh from one dram to one ounce,—one pair round sight-hole box and scales adjusted to weigh from one ounce to four pounds,—one round sight-hole box and counter beam fitted with brass chains and copper scales, proper for adjusting weights from fifty-six pounds downwards,—one set of *avoir-du-pois* brass weights from one dram to four ounces,—one set of like weights from a quarter of an ounce to four pounds,—one set of like weights, each set consisting of one of four, one of seven, one of fourteen, one of twenty-eight, and one of fifty-six pounds,—one set of Troy weights in brass, from half a grain to one ounce,—one set of like weights, from a quarter of an ounce to sixty-four ounces,—one set of like weights, each set consisting of one of seven, one of fourteen and one of twenty-eight pounds,—one set of wine measures in brass, from one gill to one gallon,—one set of Winchester measures in brass, from one gill to one gallon,—one Winchester half bushel in brass,—one bushel like measure,—one set of Canada measures in brass, from a *poisson* to a *pot*,—one half minot of like measure in brass,—one minot of the like measure in brass,—one english standard foot rule in brass,—one Paris standard foot rule in brass,—one english standard yard in brass,—one english ell in brass,—shall be, by the clerk of the assembly aforesaid, delivered over to such fit person as shall be appointed by the Governor, Lieutenant-Governor, or person administering His Majesty's government in this Province, for regulating, adjusting, stamping and marking beams, weights and measures, within the districts of Quebec and Montreal, respectively, taking a sufficient receipt for the same, from every such person ;—and one other set of the said beams, weights and measures, consisting of—one pair neat sight-hole box and scales adjusted to weigh from half a grain to one ounce,—one pair round sight-hole box and scales adjusted to weigh from one ounce to four pounds,—one round sight-hole box and counter beam fitted with brass chains and copper scales, proper for adjusting weights from fifty-six pounds downwards,—one set of *avoir-du-pois* brass weights from one dram to four ounces,—one set of like weights from a quarter of an ounce to four pounds,—one set of like weights, each set consisting of one of four, one of seven, one of fourteen, one of twenty-eight and one of fifty-six pounds,—one set of Troy weights in brass, from half a grain to one ounce,—one set of like weights from a quarter of an ounce to sixty-four ounces,—one set of like weights, each set consisting of one of seven, one of fourteen and one of twenty-eight pounds,—one set of wine measures in brass, from one gill to one gallon,—one set of Winchester measures in brass from one gill to one gallon,—one Winchester half bushel in

That two sets of beams, weights and measures, be delivered over by the clerk of the assembly, to such persons as may be appointed by the Governor for regulating, &c. the beams, &c. within the districts of Quebec and Montreal, respectively.

And another set to such person in the district of Three Rivers.

brass,—one set of Canada measures in brass, from a *poisson* to a *pot*,—one half minot of the like measure in brass,—one english standard foot rule in brass,—one Paris standard foot rule in brass,—one english standard yard in brass, and one english standard ell in brass,—shall be delivered over by the said clerk of the assembly, to such fit person as shall be appointed in like manner by the Governor, Lieutenant-Governor or person administering His Majesty's government in this Province, for regulating, adjusting, stamping and marking beams, weights and measures within the district of Three-

Persons so appointed to take an oath and to cause a certificate of the oath to be lodged with the clerk of the court of King's bench.

Rivers :—and every person so appointed before he enters on the execution of his office, shall take and subscribe an oath before one of His Majesty's justices of the court of King's bench for the districts of Quebec or Montreal, or the provincial judge of the district of Three-Rivers, as the case may be, (which oath such justice or judge is hereby authorized and required to administer) well and truly to keep and preserve the beams, weights and measures, deposited in his charge, and justly and faithfully to execute and perform the trust reposed in him by virtue of this act,—and shall cause a certificate of such oath to be deposited in the office of the clerk of the court of King's bench for the district of Quebec or Montreal, or in the office of the clerk of the provincial court of Three-Rivers, as the case may be ; and he shall also enter into a bond to His Majesty, His Heirs and Successors, in the sum of two hundred pounds current money of this Province, with two good and sufficient securities, that in case of his death or removal from his office aforesaid, he, his heirs, executors or the guardians of his estate or effects, will well and faithfully deliver over to his successor in office, or such other person as shall be appointed for that purpose by the Governor, Lieutenant-Governor or person administering His Majesty's government in this Province, all the standard beams, weights and measures entrusted to his charge in virtue of this act, within eight days after he shall be thereunto required by his successor in office, or other person appointed for that purpose, as aforesaid ; which bond shall be deposited in the office of the receiver general of this Province :—and it shall at all times be lawful for the Governor, Lieutenant-Governor or person administering His Majesty's government in this Province, to remove from office any person appointed in virtue of this act, and in case of death or removal from office, to appoint such other fit person as he may deem expedient.

And to enter into a bond to His Majesty for £200.

See Tables.

Governor may remove such persons and to appoint others.

The clerk of the Assembly to have the custody of the residue of the beams and scales.
See Tables.

The clerk of Assembly to take an oath to keep and preserve the beams, &c. under lock and key.

A certificate of the oath to be deposited with

II. And be it further enacted, &c., that all the residue of the before mentioned beams and scales, weights and measures, shall remain in the custody of the clerk of the assembly, to be for ever hereafter kept by the clerk of the assembly for the time being ; and they shall be and are hereby declared to be and remain standards for weights and measures to be used in this Province ; any law, usage or custom to the contrary notwithstanding :—and the present clerk of the assembly, and each and every of his successors in office, before he enters on the execution of his office, shall make oath before His Majesty's chief justice or one of His Majesty's justices of the court of King's bench for the district of Quebec, that he will well and faithfully keep and preserve the said beams, weights and measures, under lock and key, and not suffer any person to have access to or make use of the same, except a public sworn stamper and marker of weights and measures, in his presence, and for the purpose only of re-comparing and adjusting the district standards of beams, weights and measures hereinbefore mentioned, when the same shall be deemed necessary by the Governor, Lieutenant-Governor, or person administering His Majesty's government in this Province ; and the present and every

subsequent clerk of the assembly, shall cause a certificate of such oath to be deposited in the office of the clerk of the court of King's bench, for the district of Quebec.

the clerk of the King's bench.

III. And be it further enacted, &c., that it shall be the duty of every person appointed in virtue of this act, to adjust and regulate or to cause to be adjusted and regulated, according to the standard weights and measures deposited in his charge, all beams, weights and measures, which shall be offered to him by any person or persons to be adjusted and regulated, between the hours of nine of the clock in the morning and two of the clock in the afternoon of any day, Sundays and holidays excepted,—and to seal and stamp the same, in all cases where the quality and dimensions of the weights and measures will admit thereof, with the letters G. R. Q., when the said beams, weights and measures shall be adjusted in the district of Quebec,—with the letters G. R. M., when the said beams, weights and measures shall be adjusted in the district of Montreal,—and with the letters G. R. R., when the said beams, weights and measures shall be adjusted in the district of Three-Rivers; and every person appointed to regulate weights and measures, shall give notice thereof, by an advertisement inserted three successive weeks in the Quebec Gazette or in some newspaper printed in the district where he resides; and there shall be paid to the person so adjusting beams, weights and measures, for his labour and trouble in so doing, by the person presenting the same, the following fees: for every weight not exceeding four pounds, one penny, current money of this Province; for every weight exceeding four pounds, two pence like money; for every liquid measure, two pence, like money; for every half bushel or half pint, six pence, like money; for every bushel or minot, one shilling, like money; for every beam and scales, six pence; for every beam and scales and set of small weights for weighing gold, one shilling and three pence like money; for every measure of length, one penny.

Duty of persons appointed by virtue of this Act.

To be paid certain fees.

The fees.

IV. And be it further enacted, &c., that if any person or persons shall counterfeit any stamp or mark used by any person appointed, in virtue of this act, for stamping or marking any beam, weight or measure, or shall in any manner whatever, with a fraudulent intention, alter, diminish or augment any beam, weight or measure, stamped or marked in pursuance thereof, or shall sell, barter or exchange any goods, wares, merchandize or any commodity whatever, by any beam, weight or measure stamped or marked with any counterfeit stamp or mark, or by any beam, weight or measure altered, diminished or augmented as aforesaid,—every person so offending and being thereof duly convicted, shall, for the first offence, forfeit the sum of five pounds, current money of this Province, and for the second offence, ten pounds, like current money, and for the third and every subsequent offence, ten pounds like current money, and suffer two months imprisonment.

Penalty for counterfeiting the stamp used by the persons appointed by this act, or altering any beam, &c., marked in pursuance thereof or selling, &c., any goods by false measures, &c.

V. And be it further enacted, &c., that from and after the first day of September, one thousand eight hundred, it shall not be lawful for any merchant, shop-keeper, butcher, baker, tavern-keeper, miller or other trader, to sell, barter or exchange any goods, wares, merchandize or commodity whatever, or to pay any gold or silver coin current in this Province, by any beam, weight or measure which has not been adjusted and regulated pursuant to the directions of this act; and every such person, selling, bartering or exchanging, or offering to sell, barter or exchange any goods, wares, merchandizes or commodities whatever, or to pay any gold or silver coin current in this Province, by any weight or measure which has not

After 1st Sept. 1800, no person to sell goods, &c. but by a beam, &c., adjusted according to this act.

Penalty for selling, &c., by any weights or measures not adjusted.

been so regulated and adjusted, shall forfeit the sum of forty shillings, current money of this Province, to any person who shall sue for the same.

Standard weights established. The standard pound, <i>avoir-du-pois</i> .	VI. And be it further enacted, &c., that the standard pound <i>avoir-du-pois</i> weight hereinbefore mentioned, with its parts, multiples and proportions, shall be held and considered as the standard weight of this Province, for weighing all goods, wares, merchandize, butcher's meat, flour, meal, bread, biscuit and other commodities whatever, commonly sold by weight, (gold and silver in coin, bullion, drugs and precious stones, only excepted;)—the standard pound troy weight, also hereinbefore mentioned, with its parts, multiples and proportions, shall be held and considered as the standard weight of this Province, for weighing gold and silver in coin or bullion, drugs or precious stones;—the standard wine gallon, also hereinbefore mentioned, with its parts, multiples and proportions, shall be held and considered as the standard liquid measure of this Province, for measuring wine, cider, beer and spirituous liquors of all kinds, treacle or molasses, and all other liquids, commonly sold by guage or measure of capacity;—the Canada minimot herein before mentioned, with its parts, multiples and proportions, shall be held and considered as the standard measure of this Province, for measuring all rents payable in wheat or other grain of any kind, and also for measuring of all salt, wheat, oats, pease, barley, flax-seed or other grain or seeds, fruits or roots whatever, and likewise for measuring
The standard pound troy.	lime, sand, coals,* ashes or any other kind of commodity, usually sold by measure of capacity, where no special contract or agreement has heretofore been or shall hereafter be made to the contrary;—the english Winchester bushel, herein before also mentioned, with its parts, multiples and proportions, shall be held and considered as a standard measure of capacity in this Province, for measuring all salt, wheat, oats, pease, barley and other grain or seeds, when such articles have heretofore been or shall hereafter be specially sold or contracted for by such measure;—the Paris foot, herein before also mentioned, with its parts, multiples and proportions, shall be held and considered as the standard measure of length of this Province, for measuring all land and lots of ground granted or sold prior to the conquest of this Province, or which have been since granted or sold or shall be hereafter granted or sold, by the arpent or foot, or the parts, multiples or proportions thereof, and also for measuring all kinds of wood, timber and stone, and all manner of masons', carpenters' and joiners' work, or any other article or any other kind of work, commonly measured by the foot, or other measure of length, being parts, multiples or proportions thereof, where no special contract or agreement to the contrary has heretofore been or shall be hereafter entered into;—the english foot, hereinbefore also mentioned, with its parts, multiples and proportions, shall be held and considered as a standard measure of length in this Province, for measuring all lands granted or that shall be hereafter granted by His Majesty, His Heirs or Successors, or the division thereof heretofore or that shall hereafter be made, and also for measuring all kinds of wood, timber, or stone, and all manner of masons', carpenters' and joiners' work, or any other kind of work whatever, where a special contract or agreement has been heretofore made or shall be hereafter made for that purpose;—the english yard, herein before also mentioned, with its parts, shall be held and considered as the standard measure of length of this Province, for measuring all kinds of cloth or stuffs, made of wool, flax, hemp, silk or cotton or any mixture thereof, and all other kind of goods, wares or merchandize, commonly sold by measure of length;—the english ell, contain-
The standard wine gallon.	
The canada minimot.	
*Butter Tables.	
The english Winchester bushel.	
The Paris foot.	
The english foot.	
The english yard.	
The english ell.	

ing three feet nine inches of the standard english foot hereinbefore mentioned, with its parts, shall be held and considered as a standard measure of length in this Province, for measuring all kinds of cloth or stuffs made of wool, flax, hemp, silk or cotton, or any mixture thereof, and all other kinds of goods, wares or merchandizes which have been heretofore sold or contracted for, or shall be hereafter specially sold or contracted for by such measure.

VII. And be it further enacted, &c., that from and after the passing of this act, the clerks of the several markets in this Province, respectively, shall and are hereby directed to weigh and measure the different articles that are sold and disposed of in the said markets, when they shall be thereunto required by the parties interested therein, or either of them, and not otherwise; any law, custom or regulation to the contrary notwithstanding; and they shall be paid for weighing or measuring as aforesaid, agreeably to the rates that shall be fixed by the justices in their courts of general quarter sessions of the peace.

Clerks of the markets, when to weigh and measure articles sold in the markets.
See Tables.
To be paid for the same.

VIII. And be it enacted, &c., that all and every action or suit, that shall or may be instituted under this act, shall be prosecuted, tried and adjudged in and according to the course of His Majesty's courts of quarter sessions of the peace, in and for the districts of Quebec, Montreal, and Three-Rivers, as the case may arise therein respectively.

Actions under this act to be tried, &c., at the quarter sessions.

IX. And be it further enacted, &c., that no complaint or prosecution shall be brought against any person or persons for any fine or penalty, by this act imposed, unless the same shall be commenced within three calendar months after the offence committed.

Prosecutions to be commenced within 3 months after the offence.

14. MEASUREMENT OF COALS.

An Act to regulate the Measurement of Coal.

6 Will. IV.
Cap. 36.

WHEREAS it is necessary to regulate the measurement of coal:—Be it therefore enacted, &c., that whenever no agreement to the contrary shall be made between the parties, all sales of coal in this Province shall be made by the chaldron, or by the bushel; which measures shall be of the dimensions hereinafter prescribed.

Preamble.
Measure of coal where no agreement is made.

II. And be it further enacted, &c., that the chaldron shall contain fifty-eight cubic feet and sixty-four hundredth parts of a cubic foot, or thirty-six bushels; each bushel containing two thousand and eight hundred and fourteen cubic inches and nine fourteenth parts of a cubic inch,—the whole being english measure.

Contents of the chaldron and bushel.

III. And be it further enacted, &c., that the bushel intended by this act shall be nineteen inches and a half in diameter at the top, and eighteen inches and a half in diameter at the bottom, and nine inches and nine hundred and twenty-six thousandth parts of an inch deep—english measure.

Dimensions of the bushel.

IV. And be it further enacted, &c., that the two bushel measures employed for the purposes of this act, shall contain five thousand six hundred and twenty-nine cubic inches and four-fourteenths of a cubic inch; and the three bushel measures, eight thousand four hundred and forty-four cubic inches, and thirteen-fourteenths of a cubic inch, english measure; and the said measures shall, as shall also the one bushel measure aforesaid, be in all cases unheaped or struck measure.

Contents of the two bushel, and three bushel measure.

Coals sold by weight.

V. And be it further enacted, &c., that when, by agreement of the seller and buyer, coals are sold or bought by the weight, the same shall be by the ton, consisting of twenty hundred-weight *avoir-du-pois*.

Agreements made before the passing of this act saved.

VI. Provided always, and be it further enacted, &c., that nothing in this act contained shall extend to do away the former practice respecting the measurement of coals in any case where any bargain therefor shall have been made or agreed upon before the passing of this act.

The clerk of the hay market, to decide disputes.

VII. And be it further enacted, &c., that where any difference or dispute shall arise between any seller or buyer of coal, with respect to the measurement or weight thereof, the same shall be referred to and adjusted by the clerk of the hay-market.

15. INTEREST, BILLS OF EXCHANGE, NOTES, &c.

17 Geo. III.
Cap. 3.

An Ordinance for ascertaining damages on protested Bills of Exchange, and fixing the rate of interest in the Province of Quebec.

IT is enacted and ordained by His Excellency the Captain-General and Governor-in-chief of this Province, by and with the advice and consent of the legislative council of the same, that all bills of exchange, &c. (*Sections 1, 2, 3 and 4 are not in force. See tables.*)

Rate of interest fixed at 6 per cent.

V. From and after the publication of this ordinance, it shall not be lawful, upon any contract, to take directly or indirectly, for loan of, any monies, wares, merchandize, or other commodities whatsoever, above the value of six pounds, for the forbearance of one hundred pounds for a year, and so after that rate, for a greater or lesser sum or value, or for a longer or shorter time; and the said rate of interest shall be allowed and recovered, in all cases where it is the agreement of the parties that interest shall be paid; and all bonds, contracts and assurances whatsoever, whereupon or whereby a greater interest shall be reserved and taken, shall be utterly void; and every person who shall either directly or indirectly, take, accept, and receive a higher rate of interest, shall forfeit and lose, for every such offence, treble the value of the monies, wares, merchandize and other things lent or bargained for,—to be recovered by action of debt in any of the courts of common pleas, in this Province; a moiety of which forfeiture shall be to His Majesty, and the other moiety to him or them that will sue for the same.

Penalty on persons taking a greater interest.

34 Geo. III.
Cap. 2.

An Act to facilitate the negotiation of Promissory Notes.

Preamble.
See tables.

Promissory notes shall be held to be due to the person, to whom made payable. And promissory notes payable to order, shall be assignable by indorsement,

WHEREAS it will tend to the encouragement of trade and commerce within this Province, that the negotiation of promissory notes be facilitated:—Be it enacted, &c., that from and after the passing of this act, all notes in writing, commonly called promissory notes, hereafter to be made and signed by any person or persons, or by his, her or their attorney or attorneys, legally authorized to sign such promissory notes for him, her or them, whereby such person or persons, his, her or their attorney or attorneys, as aforesaid, shall promise to pay to any other person or persons, his, her or their order, any sum of money mentioned in such promissory note, shall be taken and construed to be, by virtue thereof, due and payable to any such person or persons to whom the same shall be made payable:

such justices of the peace to cause the amount of such wages and expenses to be levied on the ship, in respect of the service on board which the wages are claimed, or the tackle and apparel thereof; and if such ship shall not be within the jurisdiction of such justices, then they are hereby empowered to cause the party upon whom the order for payment shall be made, to be apprehended and committed to the common gaol of the district or inferior district, there to remain for a time not less than one, nor more than three, calendar months, under each such condemnation.

II. And be it further enacted, &c., that if any suit for the recovery of a seaman's wages shall be instituted against any such ship or the master or owner thereof, in the court of vice-admiralty, or against the master or owner in any court of record in this Province, and it shall appear to the judge or judges of such court, in the course of such suit, that the plaintiff might have had as effectual a remedy for the recovery of his wages, by complaint to two justices of the peace as hereinbefore provided, then and in every such case, it shall be lawful for such judge or judges, and he or they is or are hereby required to certify to that effect, and thereupon no costs shall be awarded to the plaintiff.

Remedy against the ship's tackle, &c.

If any suit is brought in the admiralty, &c., which might have been brought under this act, the plaintiff to have no costs.

11. SEAMEN, DESERTING, &c.

See Class C. No. 8, page 56.

12. FISH AND OIL, INSPECTION OF.

An Ordinance to provide for the Inspection of Fish and Oil. 2 Vict. (3.)
Cap. 65.
(Temporary.)

WHEREAS the trade of this Province would be essentially promoted, if means were provided for distinguishing such fish and oil as are well cured and prepared and fit for foreign markets, from such as may be imperfectly cured and unmerchantable:—Be it therefore ordained and enacted, &c., that it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government, by a commission under his hand and seal, to appoint one or more fit and proper persons to be inspectors or inspectors of fish and oil, in and for each of the cities of Quebec and Montreal, for the purposes of this ordinance.

Preamble.

Governor may appoint inspectors of fish and oil.

II. And be it further ordained and enacted, &c., that each person so appointed an inspector of fish and oil, shall before entering upon the duties of his office, give security by bond to Her Majesty, and to the satisfaction of the Governor, Lieutenant-Governor, or person administering the government, in the sum of five hundred pounds, currency, for the due performance of his said duties, and shall take and subscribe the following oath before one of the justices of the court of King's bench for the district;—"I, A.B., inspector of fish and oil, in and for the city of do solemnly swear, that to the best of my judgment, skill and understanding, I will faithfully, honestly and impartially fulfill, execute and perform the office and duty of such inspector, according to the true intent and meaning of the ordinance passed in the second year of Her Majesty's reign, intituled, *An ordinance to provide for the inspection of fish and oil*;" and such oath shall remain of record with the prothonotary of such court, who

Inspectors to give security and take an oath of office.
See Tables.

To remain of record in the

See Tables.

the sixth day, after the same shall have become due,—and that notice of such non-payment and protest shall have been sent to such indorser or indorsers, or to the usual place or places of his, her or their residence within ten days, if such place of residence is not more than ten leagues distant from the place where such note shall be protested,—and after the rate of one day more for every five leagues that the place of residence of such indorser or indorsers may be further distant, if it is within that part of this Province lying between the Long Sault on the Ottawa river, to the westward, and the eastern boundary of the seigniories of Rimouski and Mal-bay, to the eastward,—and if such place of residence is without the foregoing limits or out of the Province, then in such reasonable time as the distance of such place of residence and the nature of the intermediate communication may require.

Particular species of value need not be expressed.

V. And be it further enacted, &c., that to maintain an action for payment of any promissory note, it shall not be necessary that the particular species of value received for the same be therein specified, but only that value has been received.

Not to repeal any law against usury or gaming.

VI. Provided always, that nothing herein contained shall extend, or be construed to extend, to repeal or make void any law, usage or custom against promissory notes granted for usurious or unlawful considerations, or for money won by gaming, or lent knowingly for the purpose of gaming.

Protest may be made by a justice of the peace, where there is not a notary.

But see Tables.

VII. And be it further enacted &c., that in places where there is not a notary, a protest may be made by a justice of the peace before two witnesses, which shall be to all the intents and purposes of this act, as valid as if it had been made by a notary and witnesses; and every protest shall be written underneath a copy of the promissory note and the indorsement or indorsements thereon.

Promissory notes due at the passing of this act shall not be recovered after three years. Limitation of five years for notes to become due hereafter.

Proviso.

VIII. And be it further enacted, &c., that every promissory note, already made and due, shall be taken and considered to be paid and discharged, if no suit or action is brought thereon within three years from and after the passing of this act; and every such promissory note already made but not due, or that shall hereafter be made, shall be taken and considered to be paid and discharged, if no suit or action is brought thereon within five years next after the day on which such promissory note shall become due and payable: Provided always, that every debtor or debtors on such promissory note, shall, if thereunto required, make oath that such promissory note is *bond fide* discharged and paid; and in case of such action being brought against heirs or other representatives against whom an action may be legally instituted, such heirs or representatives shall, if thereunto required, make oath that they do believe that such promissory note has been *bond fide* paid and discharged.

Notes not signed by the maker not to be negotiable, nor proveable but by two witnesses.

IX. Provided always, and be it further enacted, that nothing in this act shall extend, or be construed to extend, to render negotiable any notes whatsoever that are not subscribed in the hand writing of the person making the same; which notes not subscribed, although bearing the ordinary mark, shall not be proveable but by two witnesses; and no other action and decision shall lie thereupon, but such as are established by the laws, customs and usages, in force in this Province.

An Act further to suspend certain parts of an Act or Ordinance ^{3 WILL. IV. Cap. 14.} therein mentioned, and to consolidate and further to continue for a limited time the provisions of two other Acts therein mentioned, for more effectually ascertaining the damages on protested Bills of Exchange, and for determining disputes relating thereto, and for other purposes.—(*Temporary.*)

WHEREAS the act or ordinance passed in the seventeenth year of ^{Preamble.} the reign of King George the third, chapter the third, intituled, *An act or ordinance for ascertaining damages on protested bills of exchange, and fixing the rate of interest in the Province of Quebec,* ^{Se: Tables.} has been found inapplicable to the fluctuations which occur in the rates of exchange; and the said act or ordinance has been in part suspended and discontinued for a limited time, and other and more effectual provision made for the determination of disputes respecting such bills of exchange, by an act passed in the sixth year of the reign of His late Majesty King George the Fourth, chapter the fourth, and by another act passed in the ninth year of His said late Majesty's reign, chapter the first, which said two last mentioned acts will expire on the first day of May next; And whereas the provisions therein contained for the determination of disputes respecting such bills of exchange have been found beneficial, and it is expedient to consolidate the same and further to suspend such part of the said ordinance as relates to such bills of exchange:—Be it therefore enacted, &c., that from and after ^{17 Geo. 3. cap. 3, suspended, except sect. 5.} the first day of May, which will be in the year of Our Lord one thousand eight hundred and thirty-three, the said act or ordinance, &c., (17 Geo. 3. cap. 3.) save and except the last article or clause thereof relating to the rate of interest, shall be and the same is hereby suspended and discontinued during the continuance of this act.

II. And be it further enacted, &c., that all bills of exchange which from ^{Rate of damages allowed on protested bills of exchange.} and after the said first day of May, in the year of Our Lord one thousand eight hundred and thirty-three, shall be drawn sold or negotiated within this Province, although the same may not have been drawn on or by any person residing therein, and which shall be returned under protest for non-payment, shall, if drawn upon persons in Europe or in the West Indies or in any part of America not within the territory of the United States, and so returned under protest for non-payment, be subject to ten per *centum* damages, or if drawn on persons in any of the other British North American colonies or in the United States, and so returned, shall be subject to four per *centum* damages,—and in each and every of the foregoing cases shall also be subject to six per *centum* per annum of interest on the amount for which the bill is drawn, to be reckoned from the day of the date of the protest to the time of repayment; which amount shall be reimbursed to the holder at the current rate of exchange of the day when the protest for non-payment shall be produced and repayment demanded, that is to say,—the holder of any such bill returned under protest for non-payment, shall be entitled to recover from the drawer or indorsers thereof, so much current money of this Province as shall then be equal to the purchase of another bill of the like amount, drawn on the same place and at the same sight, together with the damages and interest above mentioned, as also the expenses of noting and protesting the bill, and the postages incurred thereon.

If the rate of exchange on commercial bills be disputed, arbitrators to be appointed.

Proviso, as to refusal to appoint.

Bills protested for non-payment to be subject to interest.

III. And be it further enacted, &c., that when the protest of a bill returned for non-payment, shall by the holder thereof be notified to the drawer or indorser, in person or in writing delivered to a grown person at his or their counting house or dwelling house, and they disagree about the then rate of exchange for commercial bills, the holder and the drawer or indorser so notified shall each nominate and appoint an arbitrator to determine the said rate, and if the said arbitrators shall disagree, they shall nominate a third one, and the decision of any two of them giving in writing to the holder of the bill shall be final and conclusive as to the then rate of exchange and regulate the sum to be paid accordingly : And if either the holder, indorser or drawer of the bill, as the case may be, shall refuse or neglect for the space of forty-eight hours after such notification to name an arbitrator on his behalf, the decision of the single arbitrator on the other part shall be in like manner final and conclusive.

IV. And be it further enacted, &c., that all bills or orders drawn by persons in this Province on persons within the same, or promissory notes given in this Province, if protested for non-payment, shall be subject to six per centum per annum of interest from the date of the protest, or if interest be therein expressed as payable from a particular period, then from such period to the time of payment.

16. BANKING AND BANKERS.

2 Vict. (3.) chap. 57.

An Ordinance to regulate Private Banking, and the Circulation of the Notes of Private Bankers.

Preamble.

WHEREAS it is expedient to regulate, by law, the issuing or circulation of notes and other written promises and undertakings for the payment of money, intended for circulation in this Province, and not being those of any bank chartered or recognized or authorized, by the legislature of this Province or by competent authority in any part of Her Majesty's dominions, or in the United States of America :—Be it therefore ordained and enacted, &c., that after the expiration of fifteen days from the passing of this Ordinance, it shall not be lawful for any person or persons, body politic or corporate, except the banks which are or may be chartered or recognized as aforesaid, to make, sign or indorse or draw any bill, note, *bon*, check, or other promise or undertaking, for the payment of any sum less than five pounds currency, either in money or in other notes purporting to be payable in money, if the same be made payable, either in form or in fact, to the bearer thereof, or on demand or less than thirty days thereafter, or at sight or less than thirty days thereafter, or be over due, or antedated, or be in any way whatever calculated or intended for circulation, as a substitute for money or of any notes of such chartered or recognized banks as aforesaid, or of any thing which is itself a substitute for money,—unless such maker or makers, signer or signers, indorser or indorsers, shall have obtained a licence from the Governor, Lieutenant Governor, or person administering the government of this Province, to act as a banker or bankers in this Province ; and any persons or persons, body politic or corporate, who shall offend against the provisions of this section, shall, for each such offence, incur a penalty of triple the nominal amount of each bill, note, *bon*, check,

No person to issue notes under £5 currency, without licence to act as a banker.

Offenders to incur a penalty.

promise or undertaking, made, signed, indorsed, or drawn contrary to the provisions of this ordinance; Provided always, that nothing in this section shall extend to any check upon any chartered or incorporated or recognized bank, or licensed banker, paid by the maker or makers thereof, to his, her or their immediate creditor or creditors. Proviso.

II. And be it further ordained and enacted, &c., that any licence granted under the authority of this ordinance shall be forfeited, if the person or persons, body politic or corporate, holding such licence shall, in any case, refuse or neglect to pay, on demand and according to the purport and tenor thereof, any bill, note, *bon*, promise, or undertaking, made and issued, signed, drawn, or indorsed at any time, either before or after the receiving such licence, by such person or persons, body politic or corporate, who shall, from and after the time of such refusal, be subject to all the restrictions and penalties to which persons having no such licence are liable under this ordinance. Licence to be forfeited, if notes are not paid when due.

III. And be it further ordained and enacted, &c., that no such person or persons, body corporate or politic, shall make, sign, draw, or indorse any bill, note, *bon*, promise, or undertaking, for any less sum than five dollars currency; under a penalty of five pounds currency for each offence. Penalty for issuing notes under 5s. currency.

IV. And be it further ordained and enacted, &c., that all licences granted under the authority of this ordinance, shall be granted for one year from the date thereof, and no longer, and shall be published by the party receiving same, in both languages, in at least two newspapers published in each of the cities of Quebec and Montreal. Licences to be granted for one year, and published.

V. And be it further ordained and enacted, &c., that the person or persons, body politic or corporate, to whom any licence shall be granted under the authority of this ordinance, shall respectively transmit to the Governor, Lieutenant-Governor or person administering the government of this Province, before such licence shall be granted, and at the end of every three months afterwards, reckoning from the date of the licence, and at any other time when he shall think fit to demand the same, a statement of his, her or their affairs at the time, and shall answer in writing all such questions touching such statement, as shall be put by order of the Governor, Lieutenant-Governor, or person administering the government, but shall not be bound in such statement or answer to disclose the private account of any third party, nor shall it be requisite to state more of the affairs of the party making the statement, than is requisite to prove the ability of such party to meet his or their liabilities; and such statement shall be in the form of the schedule A, and shall be attested on oath, as shall also the answers so to be given as aforesaid respecting the same, by the person or one of the persons, or by the legal representatives of the body politic or corporate, to whom the licence was granted; and if such statement be not transmitted, or if such answer be not given in the manner herein required, the licence of the party so in default shall be forfeited: Provided always, that such statement shall show the amount of notes issued by the party making it, for less than five dollars each; and such amount shall not exceed one-fifth of the capital of such party (as shown by such statement) whose licence shall be forfeited by any such excess; and in calculating such capital, all liabilities, except notes and promises issued under the authority of such licence, shall be deducted from the amount of effects shown in the statement. Licensed bankers to transmit a statement of their affairs to the Governor.

Form and attestation of statement.

To forfeit licence in case of default. Proviso.

Public notice to be given when a licence is forfeited.

VI. And be it further ordained and enacted, &c., that in any case of refusal or neglect to transmit such statement or give such answers, it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government, to cause official notice to be inserted in the Quebec Gazette published by authority, and in the Montreal Gazette, that the licence of the party in default is forfeited; and the party whose licence shall have been forfeited for such cause, or for any other contravention of this ordinance, shall be held to have had no licence from the time such forfeiture was incurred.

Statements of affairs, &c., to be published officially.

VII. And be it further ordained and enacted, &c., that the statement so transmitted as aforesaid shall be published officially in the Quebec Gazette published by authority, and the Montreal Gazette, and in one other newspaper published in each city, by the party making the statement; and it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government, to publish any part of any answers thereunto relating, which he shall deem it expedient to make public.

No notes for any sum less than £5 currency, to be given or received in payment, except those of chartered or licensed banks.

VIII. And be it further ordained and enacted, &c., that from and after the fifteenth day of June next after the passing of this ordinance, it shall not be lawful for any person or persons, directly or indirectly, to give or receive as money, or as a substitute for money or for such bank notes or other thing which may be itself intended as a substitute for money as aforesaid, or to pass or utter in any way, any bill, note, *bon*, check or other promise or undertaking, for the payment of any sum less than five pounds, currency, if the same be in fact or in form payable on demand or less than thirty days thereafter, or at sight or less than thirty days thereafter, and be in form or in fact payable to the bearer thereof, or be in any way whatever intended or calculated to form a circulating medium in place of money, or of bank notes, or other thing as aforesaid, in this Province,—unless such bill, note, *bon*, check or other promise or undertaking as aforesaid, shall have been made and issued by some chartered or recognized bank within Her Majesty's dominions, or by some chartered bank in the United States of America, or by some party duly licensed under this ordinance, and made and dated after such party shall have been so licensed, or be a check drawn by the party paying or uttering it on some such bank as aforesaid, or on some party licensed as aforesaid, and not passed into the hands of any third party: Provided always, that nothing herein contained shall prevent any person or persons, who is, are or shall become, on or before the said fifteenth day of June, the holder or holders of any such bill, note, *bon*, check or other promise or undertaking, or his, her, or their legal representatives, from demanding, enforcing and receiving payment of the same from the maker or makers, drawer or drawers, acceptor or acceptors, indorser or indorsers thereof, or his, her, or their legal representatives.

Proviso with respect to persons holding notes not issued by chartered or licensed bankers before 15 June 1839.

Penalty for paying or receiving any such notes.

IX. And be it further ordained and enacted, &c., that each and every person who shall, contrary to the provisions of this ordinance, pay, utter or receive any such bill, note, *bon*, check, promise or undertaking as aforesaid, shall incur a penalty of triple the nominal amount thereof.

Penalties how to be recovered.

X. And be it further ordained and enacted, &c., that the penalties imposed by this ordinance may be recovered in a summary manner, with costs, on the oath of one credible witness other than the informer, (or of the informer, if he, or she be a credible witness, and shall forego the moiety of the penalty which would otherwise belong to him or her,) before any two or

more justices of the peace, if the penalty sued for does not exceed the sum of twenty pounds currency, and if it exceed that amount, then in any court of competent jurisdiction; and the court or justices rendering judgment for any such penalty and costs against any offender, may award execution or distress for the same, or may condemn the offender to be imprisoned for not more than six months, or until such penalty and costs be paid: Provided always, that no person who shall be a witness or informer against either the giver or payer, or the receiver of any such bill, note, *bon*, check, or other promise or undertaking, or against both of them, shall thereupon be liable to any prosecution or to any penalty under this ordinance, by reason of his or her share or part in such giving, paying or receiving, nor shall his or her evidence be invalidated by reason of the same. Proviso respecting informers or witnesses.

XI. And be it further ordained and enacted, &c., that any mortgage or *hypothèque*, or any deed, bond or obligation, note, bill, or other security, which may, directly or indirectly, mediately or immediately, be given or taken for securing any loan or advance made in such bills, notes, *bons*, promises or undertakings as are prohibited by this ordinance to be circulated, shall be absolutely null and void; and any person or persons who may have been concerned in taking such mortgage or *hypothèque*, or deed, bond, obligation, note, bill, or other security, or in making such loan or advance, whether on his, her or their own behalf or that of others, shall be liable to be interrogated with respect to the same, in any court of law, as freely and fully as any party may be interrogated in his own cause or in that of any other person or persons, and to incur all the legal consequences of refusing to answer or of answering untruly; any law, usage or custom to the contrary notwithstanding. Mortgages &c. given for any loan in prohibited notes to be null and void.

XII. And be it further ordained and enacted, &c., that nothing in this ordinance shall extend or be construed to extend, to make valid any bill, note, *bon*, check, or other undertaking for the payment of money, notes, or substitute for money as aforesaid, which may have been or may hereafter be made, issued, or circulated in contravention of any law, statute or ordinance in force in this Province. This ordinance not to make valid any notes circulated in contravention of any law.

XIII. And be it further ordained and enacted, &c., that one moiety of all penalties recovered under this ordinance, shall go to Her Majesty, for the public uses of the Province; and the other moiety shall belong to the informer, unless he or she shall forego the same as aforesaid, in which case the whole shall go to Her Majesty, for the said uses; and all such penalties and monies received for the said uses, under this ordinance, shall be accounted for to Her Majesty, Her Heirs and Successors, through the lords commissioners of the treasury, in such manner and form as Her Majesty, Her Heirs and Successors shall direct. Penalties how to be applied and accounted for.

SCHEDULE A.

Statement of the affairs of

EFFECTS.	LIABILITIES.
Amount of gold, silver and other coined metals in hand, - £ Bills or checks on banks or licens- ed bankers in this Province, - Amount of balances due from any such bank or banker - - - Amount of stock in any such bank, - - - - - Amount of balances due from any other parties, secured on any real property, - - - Amount of such balances not so secured, but which are believ- ed to be good, - - - Real property, that is to say, (describe such property) the clear value of which over and above all incumbrances there- on or rents or dues of any kind payable out of it, is, at least, -	Amount of monies on hand of any kind, belonging to other persons, - - - £ Amount of debts due to banks and bankers, - - - Amount of debts due to other persons, - - - Amount of bills, notes, <i>bons</i> , and other promises in writing for the payment of money, out- standing or in circulation, - Amount of notes or bills, in- dorsed for or of security given for others, which it is believ- ed will become payable by the party making the statement, - Other liabilities, (<i>Specify their nature and amount.</i>)
£	£
(If any other effects, they may be stated and described.)	

“ I (*or we*) solemnly swear, that the above statement is correct and true,
 “ and that I am (*or we are, or* is) worth and able to raise and pay the
 “ sum of by which the effects mentioned in the said state-
 “ ment exceed the liabilities also mentioned therein, after having paid all
 “ debts, dues, demands, and liabilities of me, (us, *or them, &c.,*) the
 “ said

“ Witness my (*or our*) hand (*or hands*) .

“ Sworn before me, one of the judges of the court of King’s bench, at
 “ this day of 18 .”

17. QUEBEC BANK.

2 Vict. (3.)
Cap. 24.

An Ordinance to prolong the term of the Royal Charter incor-
 porating the Quebec Bank, and to make further provision for
 the government and management of the said Bank.—(*Tem-
 porary.*)

Preamble.

WHEREAS His late Majesty King William the Fourth, by letters
 patent, bearing date at Westminster, the thirty-first day of May, in
 the seventh year of his reign, did grant, ordain and appoint, that Charles
 Smith, Louis Massue, François Buteau, Hypolite Dubord, Thomas Fargues,
 John Malcolm Fraser, James Gibb, William Henderson, James Hunt, Je-
 remiah Leaycraft, Collin McCallum, Pierre Pelletier, and Thomas Allen
 Stayner, and all other persons who were then stockholders in a certain bank
 therein mentioned, and all or any person or persons, bodies politic and cor-
 porate, who, as executors, administrators, curators, successors, or assigns,
 or by any other lawful title to any other part, share or interest of and in the

capital stock of the said bank, so long as they should respectively have any such part, share or interest therein, should, from the first day of June, one thousand eight hundred and thirty-seven, be one body politic and corporate, by themselves, in deed and in name, by the name of *The Quebec Bank*, and should so continue and have perpetual succession, and should and might, by the said name, be able and capable, in law, to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts and places whatsoever, and should also be able and capable in law to purchase, hold, enjoy and retain to them and their successors, lands and tenements, real or immoveable estate, for the convenient conduct and management of the business of the said bank, and for no other purpose, and might sell, alienate and dispose of such lands, tenements, real or immoveable estate, and purchase and acquire others in their stead, for the purpose aforesaid, and might have a common seal, and might change and alter the same at pleasure, and might also ordain, establish and put in execution such by-laws, ordinances and regulations, (the same not being contrary to the said letters patent or any laws in force in this Province,) as might appear to them necessary and expedient for the management of the said bank, which by-laws, ordinances, and regulations should be made by the directors of the said bank, or a majority of them, and the said directors should and might do and execute, in the name aforesaid, all and singular other the matters and things that to them should or might appertain to do, subject nevertheless to the rules, regulations, limitations and provisions therein prescribed; and His said late Majesty did thereby declare and ordain, that at the expiration of twelve months from and after the determination of the session of parliament for this Province, which should be holden next after the date of the said charter, the business to be carried on by the said corporation should cease and determine, and that it should not be lawful for the said corporation to carry on the business of bankers for any longer period, but that all the powers and directions for carrying on such business, contained in the said charter, should at the expiration of such period, become void and of none effect: And whereas it would essentially contribute to the advancement of the agriculture and commerce of this Province, if the said corporation should be continued from the expiration of twelve months, from and after the session of parliament for this Province, holden next after the date of the said charter, until the first day of November in the year one thousand eight hundred and forty-two, with such additional powers and provisions as are necessary to enable the said corporation to carry into full effect the several purposes declared in the said charter, many of which cannot be attained without legislative aid:—Be it therefore ordained and enacted, &c., that the said charter, with the several clauses, powers, provisos, authorities, matters and things therein contained, shall be and the same is hereby ratified and confirmed, and that the said corporation shall be, and the same is hereby continued until the first day of November one thousand eight hundred and forty-two, with all, each and every the powers, authorities, matters and things in the said charter contained, subject nevertheless to the rules, regulations, limitations, and provisions hereinafter prescribed and enacted,—and may also from time to time, at any general meeting of the said stockholders, for that purpose, or at any general annual meeting of the said stockholders, ordain, establish and put in execution such by-laws, ordinances and regulations, (the same not being contrary to the present ordinance or to any laws in force in this Province,) as may appear to them necessary or expedient for the management of the said bank, and may from time to time alter

Charter of
Quebec Bank
continued in
full force till
1st Nov. 1842.

But see Tables.

Proviso.

and repeal the same or any of them ; and such by-laws, ordinances and regulations shall be made, altered or repealed by the directors for the time then being, and submitted to the stockholders for their approval, at any general meeting called, as hereinafter prescribed, or at any annual meeting: Provided always, that at least six weeks public notice shall have been previously given of the intention of the directors to submit such by-laws, ordinances or regulations, or the repeal or alteration thereof, at such meeting, for confirmation or revision ; and no new by-law, ordinance or regulation shall have any force until so confirmed, and those lawfully in force at the time of the passing of this ordinance, shall remain in force until their alteration or repeal shall be so confirmed.

Bank authorized to increase its stock by a further sum of £150,000, divided into 6000 shares of £25 each.

But see Tables.

Proviso.

Votes.

II. And whereas the capital stock of the said Quebec bank, under the said charter, consists of the sum of seventy-five thousand pounds, current money of this Province, divided into three thousand shares of twenty-five pounds each, which said sum has been found insufficient for the convenience and accommodation of the public, and it is expedient to permit the augmentation thereof:—Be it further ordained and enacted, &c., that in addition to the said sum of seventy-five thousand pounds mentioned in the said charter, it shall be lawful for the said Quebec bank to increase the capital stock of the said Quebec bank by a further sum not exceeding one hundred and fifty thousand pounds current money aforesaid, divided into six thousand shares of twenty-five pounds each, to be paid by the holders of such shares respectively, by instalments of not less than ten per cent. on the amount held by each of them, at such time or times and place as the directors of the said Quebec bank shall appoint, after notice of not less than thirty days in this behalf to be previously given in one or more of the public newspapers published in the said city of Quebec ; and all executors, curators, and administrators, who shall pay up the instalments thereon due by the estate or succession which they respectively represent, in obedience to any call made for that purpose in the manner aforesaid, shall be hereby respectively indemnified: Provided, however, that the several persons who shall hold any share or any number of shares of the additional capital stock which the said Quebec bank is hereby empowered to raise, shall only have a vote or votes at any general meeting of the said corporation, according to the number of such shares on which the full amount of twenty-five pounds currency, in specie, shall have been paid in by them respectively ; nor shall any person be elected or act as one of the directors of the said bank, until he shall have paid in the full amount of twenty such shares, that is to say, a sum not less than five hundred pounds, current money aforesaid, and shall be otherwise qualified to be so elected and to act, under the provisions in the present ordinance contained.

Election of Directors.

III. And be it further ordained and enacted, &c., that for the management of the affairs of the said corporation, there shall be thirteen directors, who shall be annually elected by the proprietors of the capital stock of the said bank, at a general meeting of them, to be annually held on the first Monday of June, the first whereof shall be held on the first Monday in June now next ensuing ; at which annual meeting, the said stockholders shall vote according to the rule hereafter established as to the manner of voting at general meetings ; and the directors so chosen by a majority in conformity to such rule, shall be capable of serving as directors for the next ensuing twelve months, unless removed for mal-administration before that period by the stockholders at a general meeting to be held by them, or unless suspen-

ded as hereinafter provided; and at their first meeting after such election, they shall choose out of their number a president and vice-president, who shall hold their offices, respectively, during the same period for which the said directors shall have been elected as aforesaid; and it shall be lawful for the said directors, from time to time, in case of the death, resignation, absence from the Province for three months consecutively or removal, of the persons so chosen to be president and vice-president, or either of them, to choose, in their or his stead, from among them the said directors, another person or persons to be president and vice-president respectively; and in case of the death, resignation, absence from the Province for three months at a time, or the removal of the director by the stockholders as aforesaid, his place, in case of such removal, shall be filled up by the said stockholders, at any one of their general meetings, and in the other cases last mentioned, by the remaining directors or a majority of them; and the person so appointed in the place and stead of such director, shall serve till the next general meeting for the election of the directors; and in the event of any temporary absence of the president of the said bank, whether occasioned by sickness or otherwise, the remaining directors of the said bank may, by a vote duly recorded in the register of their proceedings, devolve upon the vice-president of the said bank, during the continuance of such temporary absence, all the duties of the said president; and in the event of the unavoidable absence of both the president and vice-president, at any board of the said directors held for the transaction of business, the said directors, when assembled, shall appoint one of themselves to supply the places of such president or vice-president; and the director so appointed shall vote as a director at the board, and if there be an equal division on any question, shall have a casting vote.

Directors to choose a president and vice-president who may be removed and successors appointed.

Variances among the directors.

Absence of the president.

Or of the vice-president.

IV. Provided always, and it is hereby expressly ordained and enacted, &c., that no stockholder who shall not be a natural born subject of Her Majesty, or a subject of Her Majesty naturalized by act of the British parliament, or a subject of Her Majesty by the effect of the conquest and cession of the Province, or who shall be a subject of any foreign prince or state, shall, either in person or by proxy, vote for the election of any director to be elected in the manner hereinbefore directed, or shall vote at any meeting of the said stockholders for the purpose of ordaining, establishing or putting in execution any by-laws, ordinances, or regulations to be made under the authority of this ordinance, or shall assist in calling any meeting of such stockholders, or shall vote for any other purpose or purposes whatsoever hereinbefore authorized; any thing herein contained to the contrary notwithstanding.

Foreigners and aliens who may be stockholders not entitled to vote.

VI. And be it further ordained and enacted, &c., that if at any time it shall happen that an election of directors shall not be made or take effect on the day when, in pursuance of this ordinance, it ought to be made and take effect, the said corporation shall not be deemed or taken to be dissolved, but it shall be lawful at any other time to make such election, at a general meeting of the stockholders to be called in the manner hereinafter prescribed.

When the election of directors shall not take place on the day appointed.

VII. And be it further ordained and enacted, &c., that the directors for the time being shall have power to appoint such officers, clerks and servants under them, as shall be necessary for conducting the business of the said corporation, and to allow them such compensation for their services respectively, as shall be reasonable and proper; and the said directors shall be capable of exercising such other powers and authority for the well govern-

Directors for the time being to have power to appoint officers, &c.

ing and ordering of the affairs of the said corporation, as shall be prescribed by the by-laws, ordinances, and regulations of the said corporation.

In suits at law, service upon president or vice-president to be sufficient.

VIII. And be it further ordained and enacted, &c., that in all and every suit or suits at law, which at any time hereafter may be instituted by or on the part and behalf of any person or persons against the said bank, service of process upon the president or vice-president of the same, for the time being, or at the office of the said bank, shall, to all intents and purposes, be sufficient to compel the said bank or corporation to appear and to plead to such suit or suits at law ; any law, usage or custom to the contrary in any wise notwithstanding : and all and every suit or suits at law, which at any time may be instituted by or on the behalf of the said bank, against any person or persons, body or bodies politic or corporate, shall be instituted and prosecuted by the president and directors of the said bank, for the time being, for and in the name of the said bank.

Fundamental articles of the corporation.

IX. And be it further ordained and enacted, &c., that the following rules, restrictions and provisions shall form and be deemed and held to be fundamental articles of the said corporation, that is to say :—1st. The number of votes to which each stockholder or stockholders, co-partnership, body politic or corporate, holding stock in the said corporation, shall be entitled, on every occasion when, in conformity to the provisions of this ordinance, the votes of the members of the said corporation are to be given, shall be in the proportions following, that is to say ;—for one share and not more than two, one vote ; for every two shares above two and not exceeding ten, one vote, making five votes for ten shares ; for every four shares above ten and not exceeding thirty, one vote, making ten votes for thirty shares ; for every six shares above thirty, and not exceeding sixty, one vote, making fifteen votes for sixty shares ; and for every eight shares above sixty and not exceeding one hundred, one vote, making twenty votes for one hundred shares ; but no person or persons, co-partnership, body politic or corporate, being a member or members of the said corporation, shall be entitled to a greater number than twenty votes : and all stockholders, resident within the Province or elsewhere, may vote by proxy, if he, she or they shall see fit, provided that such proxy be a stockholder and do produce

Number of votes in proportion to shares.

Limitations.

Votes by proxy.

But see Tables.

an authority from his constituent or constituents, for so representing and voting for him, her or them, according to the form A. annexed to this ordinance ; and provided also, that after the first election of directors to be made after the passing of this ordinance, no share or shares of the capital stock of the said corporation shall confer a right of voting, either in person or by proxy, which shall not have been held during three calendar months, at the least, prior to the day of election or of the general meeting, when the votes of the stockholders are to be given ; and where two or more persons are the joint owners of any part of the said stock, it shall be lawful that one person only be empowered, by letter of attorney from the other owners, or a majority of them, to represent the said stock and to vote accordingly.—2nd. No person other than a stockholder actually resident in the city of Quebec, and holding at least twenty shares of the capital stock of the said corporation, and being a natural born subject of Her Majesty, or a subject of Her Majesty naturalized by act of the British parliament, or a subject of Her Majesty by the effect of the conquest and cession of this Province, and who shall have resided seven years in this Province, and in any of the above cases, who shall have resided three years consecutively in the city of Quebec, shall be capable of being elected or chosen a director of the said corpo-

Qualification of directors.

ration, or shall serve as such.—3rd. Seven of the directors in office at the period of each annual election, shall be re-elected for the next succeeding twelve months.—4th. No director shall be entitled to any salary or emolument, unless the same shall have been allowed to him by a general meeting of the stockholders; but the stockholders may make such compensation to the president or vice president, for their extraordinary attendance at the bank or other services, as shall appear to them to be reasonable and proper.—5th. Not less than five directors shall constitute a board for the transaction of business, of which number the president or vice-president shall always be one, except in case of sickness and necessary absence, in which case their places may be supplied by any other director whom the president or vice-president shall respectively, by writing under his hand, appoint for that purpose. The president and vice-president shall vote at the board as directors, and in any case of there being an equal number of votes for and against any question before them, the president, and in his absence the vice-president, or in their absence the president for the time being, shall have a casting vote.—6th. Any number of stockholders, not less than twenty, who together shall be proprietors of two hundred and fifty shares of the capital of the said corporation, shall have power at any time, by themselves or their proxies, to call a general meeting of the stockholders for purposes relating to the said corporation, giving at least six weeks notice thereof, in at least one of the newspapers published in the city of Quebec, and specifying in such notice the time and place of such meeting, with the object or objects thereof; and the directors of the said corporation, for the time being, or any seven of them, shall have the like power at any time (upon their observing the like formalities,) to call a general meeting as aforesaid; and if the object of such meeting to be called by the stockholders or directors as aforesaid, shall be to consider of the proposed removal of the president or vice-president, or a director or directors, for mal-administration, then and in such cases the person or persons whom it shall be so proposed to remove, shall, from the day from which such notice shall be first published, be suspended from the execution of the duties of his or their offices; and if it be the president or vice-president whose removal shall be proposed, as aforesaid, his place shall be filled up by the remaining directors, who shall appoint a director to serve as such president or vice-president during the time such suspension shall continue.—7th. Every cashier and clerk of the bank, before he enters upon the duties of his office, shall give bond, with two or more sureties, to the satisfaction of the directors, that is to say,—every cashier in a sum not less than five thousand pounds, and every clerk in such sum as the directors shall consider adequate to the trust to be reposed in him, with condition for his good and faithful behaviour.—8th. The lands and tenements which it shall be lawful for the said corporation to hold, shall be such only as are hereinbefore permitted to be held by it: Provided always, that the said corporation may take and hold mortgages (*hypothèques*) on real property, according to the law of this Province, by way of additional security for debts contracted to the said corporation in the course of its dealings; but on no account shall money be lent on mortgages (*hypothèques*) or upon land or other fixed property, nor shall such be purchased by the corporation upon any pretext as above-mentioned.—9th. The total amount of the debts which the said corporation shall at any time owe, whether by bond, bill or note, or other contract whatsoever, shall not exceed treble the amount of the capital stock actually paid in (over and above a sum equal in amount to such money as may be deposited in the bank for safe

Re-election of directors.

No compensation to any directors except the president or vice-president.

Quorum.

Power of stockholders to call a general meeting.

Cashiers and clerks to give security.

What lands may be held.

Bank not to owe more than treble the amount of Capital stock actually paid in. See Tables.

	keeping;) and in case of excess, the directors under whose administration it shall happen, shall be liable for the same in their private capacities, as well to the stockholders as to the holders of bank-notes, and an action in this behalf may be brought against them or any of them, their or any of their heirs, executors, administrators and curators, and be prosecuted to judgment and execution, according to the laws of this Province; but this shall not exempt the said corporation or the lands, tenements, goods or chattels thereof, from being also liable to such excess: Provided always, that such directors as shall have been absent when the said excess was contracted or incurred, or shall have entered their protest against it upon the book or books of the said corporation, may respectively exonerate and discharge themselves therefrom by publishing such protest in the public papers within eight days.—10th. The stock of the said corporation shall be assignable and transferable according to the form B, annexed to this ordinance; but no assignment or transfer shall be valid or effectual, unless such transfer or assignment be entered or registered in a book or books to be kept by the directors for that purpose, nor until the person or persons making the same shall previously discharge all debts actually due by him, her or them, to the said corporation, which may exceed in amount the remaining stock belonging to such person or persons,—and in no case shall any fractional part of a share or shares, or other than a complete share or shares, be assignable or transferable.—11th. Bank obligations, bank bonds, bank bills obligatory and of credit, under the common seal of the said corporation, signed by the president or vice-president and countersigned by a cashier, which shall be made payable to any person or persons, shall be assignable by indorsements thereupon, without signification thereof, any law or usage to the contrary notwithstanding; and bank bills or bank notes, which shall be issued by order of the said corporation, signed and countersigned as aforesaid, promising the payment of money to any person or persons, his, her or their order, or to the bearer, although not under the seal of the corporation, shall be binding and obligatory upon the same, and shall be assignable and negotiable by blank or other indorsement, or otherwise, in like manner as if they were made and issued by private persons, that is to say,—those which shall be payable to any person or persons, his her or their order, shall be assignable by blank or other indorsement, in like manner and with the like effect as foreign bills of exchange now are, and those which shall be payable to bearer shall be negotiable by delivery only.—12th. The books, papers, correspondence and funds of the said bank shall, at all times, be subject to the inspection of any director or directors appointed by the directors or a majority of them for that purpose, and not otherwise; but no stockholder, not being a director, shall inspect the account of any individual or individuals with the said corporation.—13th. Half-yearly dividends shall be made of so much of the profits of the said corporation as shall appear to the directors, for the time being, advisable, and shall be payable at such place or places as the said directors shall appoint, of which they shall give public notice, thirty days previously, in at least two newspapers published at the said city of Quebec, which dividends shall not, in any manner whatsoever, lessen or impair the capital stock of the said corporation;—and the said directors shall every year, at the general meeting held for the election of directors, lay before the stockholders, for their information, a statement of the affairs of the said corporation, containing, on the one part, the amount of capital stock paid in, the amount of their notes in circulation, the net profits in hand, the balances due to other banks, and the cash deposited in
Proviso.	
Stock assignable and transferable.	
Manner of transferring bank obligations.	
Books subject to inspection of directors.	
Dividends to be paid half yearly.	
Directors to lay a full statement of affairs of the bank before the stockholders at the annual general meeting	

the said bank, distinguishing deposits bearing interest, if any there be,—and on the other part, the amount of current coins and gold and silver bullion in the vaults of the said bank, the value of buildings and other real estate belonging to the said corporation, the balances due to them from other banks, and the amount of debts owing to the said corporation, including and particularizing the amounts so owing on bills of exchange, discounted notes, mortgages and other securities; thus exhibiting, on the one hand, the debts due by the said corporation, and, on the other hand, the resources thereof; and which statement shall also contain the rate and amount of the then last dividend declared by the said corporation, the amount of the profits reserved at the time of declaring such dividend, the amount of debts due to the said corporation, and secured by the pledge of the stock thereof, belonging to the persons from whom such debts are due, and the amount of debts over due and not paid, with an estimate of the loss which may probably be incurred from the non-payment of such debts:—And it shall and may be lawful for the Governor, Lieutenant-Governor, or person administering the government of the said Province, from time to time, to require from the president, vice-president and directors of the said bank, a like statement, in detail, of the affairs of the said corporation, together with a list of the names of all persons who shall, at the commencement of every quarter of the year during the time for which such statements shall be required and made, have been shareholders in the said bank, specifying the number of shares held by each and every such person at the commencement of each quarter,—and also an account of the amount of paper discounted for, or monies loaned to, the directors, or for which they may be security to the said bank; and when so required by the Governor, Lieutenant-Governor, or person administering the government of the said Province, the said statement, list and account shall be rendered under the oaths of the president, vice-president and cashier, or principal officer of the said corporation: Provided always, that nothing herein contained shall be held or construed to compel or authorize the said president, vice-president, directors, cashier or other principal officer, or any or either of them, to particularise in any such statement the private account of any person or persons with the said corporation,—nor shall any thing herein contained be held or construed to give a right to stockholders of the said bank, not being directors, to inspect the account of any person or persons with the said corporation.—14th. If there shall be a failure by or on the part of any person or persons, co-partnership, body politic or corporate, to pay the amount of any instalment required to be paid on account of his, her or their shares in the said capital stock of the said corporation, the person or persons failing to pay the amount of such instalment, shall incur a forfeiture to and for the use of the said corporation, of five per centum on the amount of his, her or their shares in the said corporation, and of the dividends due to him, her or them, at the time appointed for the payment of such instalments, and also of all dividends which may afterwards accrue and become due to him, her or them, until the payment of the amount of such instalment.—15th. The said corporation shall not, directly or indirectly, deal in any thing except bills of exchange, discounting of notes of hand or promissory notes, (receiving the discount at the time of negotiating,) gold or silver bullion, or in the sale of stock pledged for money lent and not redeemed; and stock so pledged and not redeemed, shall be sold by the said corporation at public sale, at any time not less than ten days after the period of redemption, without any judgment first obtained, and without any previous suit or proceedings at law; any law, usage or custom to the contrary

held for the election of directors.

See Tables.

Governor may, from time to time, require a like statement, to be rendered under oath.

Provido.

Penalty for not paying up the amount of any instalment.

Bank not to deal in any thing except bills of exchange, &c.

See Tables.

notwithstanding ; and if upon the sale of any such stock, there shall be a surplus, after deducting the expenses of sale, over and above the money lent, such surplus shall be paid to the proprietors of such stock respectively.

Notes to be payable in gold or silver coin. See Tables.

Interest not to exceed six per cent.

X. And be it further ordained and enacted, &c., that the notes of the said corporation shall be payable in gold or silver coin, current by the laws of this Province ; and the said corporation shall not demand, receive and require upon its loans or discounts, or upon any other pretext whatsoever, any interest exceeding the lawful interest of six per *centum* per annum as fixed by the laws of this Province.

Amount of notes of a less sum than 25s. each, limited.

Proviso.

See Tables.

XI. And be it further ordained and enacted, &c., that the total amount of the notes of the said corporation, being for a less sum than one pound five shillings, currency aforesaid, each, which shall be issued and in circulation at any one time, shall not exceed one-fifth of the amount of the capital stock of the said corporation then paid in : Provided always, that no note under the nominal value of five shillings currency, shall be issued or put into circulation by the said corporation ; and that the issue and circulation of all denominations of notes, for a less sum than one pound five shillings, each, may be suppressed or further limited by any ordinance or law of this Province, without such suppression or further limitation being considered an infringement of the privileges granted by this ordinance.

Bank to forfeit its charter, if notes beyond the limit fixed by charter be issued.

See Tables.

Penalty on directors.

XII. And be it further ordained and enacted, &c., that if the total amount of all the notes of the said corporation, issued and in circulation, shall, at any one time, exceed the amount fixed and determined by this ordinance, this ordinance shall cease and determine from the time when such excessive issue shall have occurred ; and in such case the president, vice-president, and each and every of the directors of the said bank, who shall know that such excessive issue has occurred or has been authorized, and shall not, within forty-eight hours after he shall have acquired such knowledge, give public notice thereof in one of the newspapers printed and published in the city of Quebec, shall be personally and jointly and severally responsible and liable for all debts, claims and demands due by the said corporation.

Shares and dividends of stockholders to be personal property, and subject to seizure and sale accordingly. Process in such cases.

See Tables.

XIII. And be it further ordained and enacted, &c., that the share and shares and dividends of the stockholders in the said corporation, shall be held, considered and adjudged to be personal property, and as such, be liable to *bonâ fide* creditors for debts, and may be attached and sold under writs of attachment and execution issued out of Her Majesty's courts of this Province, in like manner as other personal property may be attached and sold under such writs of attachment and execution ; and in cases where an attachment may issue for attaching the said share and shares and dividends, the same shall be served on the cashier of the said corporation, who shall be held to appear in court and answer upon such writ of attachment, according to the laws of this Province, and declare the number of shares of stock, and the amount of dividends belonging and due to the person or persons against whom such attachment shall have been obtained ; and when the said share or shares have been sold under a writ or writs of execution, the sheriff by whom such writ or writs shall have been executed, shall, within thirty days after such sale, leave with the cashier of the said corporation an attested copy of the said writ or writs of execution, with the certificate of such sheriff indorsed thereon, and certifying to whom the sale of the said share or shares, under the said writ or writs of execution, has been by him made ; and the person or persons who shall have purchased such share or shares,

to sold under such writ or writs of execution, shall be held and considered as stockholder or stockholders of the said share or shares, and shall have the same rights and be under the same obligations, as if he, she or they had purchased the said share or shares from the proprietor or proprietors thereof.

XIV. And be it further ordained and enacted, &c., that no stockholder or stockholders shall be answerable in his, her or their private or natural capacity or capacities, for the debts of the said corporation, excepting directors who may be liable as hereinbefore mentioned, in cases where the total amount of debts contracted by the said corporation shall, during their administration, exceed the limitation by this ordinance prescribed.

Stockholders not personally answerable for the debts of the bank.
But see Tables.

XV. And be it further ordained and enacted, &c., that nothing in the present ordinance contained shall affect or be construed to affect, in any manner or way whatsoever, the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any bodies politic or corporate, such only excepted as are herein mentioned.

Rights of Her Majesty, &c. saved.

XVI. And be it further ordained and enacted, &c., that this ordinance shall be deemed and taken to be a public ordinance and law of this Province, and as such shall be judicially taken notice of by all judges, justices and other persons whomsoever, without the same being specially pleaded; and that in any suit or suits, or other proceedings at law, brought or had, or to be brought or had, in any of Her Majesty's courts in this Province, it shall not be necessary to produce in evidence or fyle His late Majesty's aforesaid charter of incorporation, nor a copy thereof; but that the present ordinance shall be and be held and taken to be sufficient evidence of the incorporation of the said bank by the said charter, as hereinbefore mentioned, and of all matters and things touching and concerning the management of the business of the said bank.

A public ordinance.
See Tables.

XVII. And be it further ordained and enacted, &c., that it shall not be lawful for the said corporation, at any time whatever, directly or indirectly to advance or lend to, or for the use, or on account of any foreign prince or state, any sum or sums of money whatever; and if such unlawful advance or loan be made, then and from thenceforth the said corporation shall be dissolved, and all the powers, authorities, rights and advantages hereby granted to the said corporation, shall from thenceforth cease and determine; any thing in the present ordinance contained to the contrary thereof in anywise notwithstanding: And provided also, that the said corporation shall not raise loans of money, nor increase its capital.

The bank shall not advance money to any foreign prince or state.

FORM A.

STOCK OF THE QUEBEC BANK.

Power of attorney to accept transfers, receive dividends, sell and vote.

" Know all men by these presents, that I (or we) of
do make, constitute and appoint
" of my (or our) true and lawful attorney, for me (or
" us), in my (or our) name, and on my (or our) behalf, to accept all
" such transfers as are, or may hereafter be made unto me (or us) of any
" interest or share in the capital or joint stock of the Quebec bank, to
" receive and give receipts for all dividends that are now due, and that
" shall hereafter become due and payable for the same, for the time being;
" to sell, assign and transfer all or any part of my (or our) said stock, to
" receive the consideration money, and give a receipt or receipts for the

“ same, and to vote at all elections ; and generally to do all lawful acts re-
 “ quisite for effecting the premises ; hereby ratifying and confirming all that
 “ my (or our) said attorney shall do therein, by virtue hereof. In witness
 “ whereof, I (or we) have hereunto set my (or our) hand and seal, at
 “ this day of in the year of Our Lord, one
 “ thousand eight hundred and
 “ Signed and sealed in the presence of

FORM B.

“ For value received from of I (or we) do
 “ hereby assign and transfer unto of shares, of
 “ each of which has been paid pounds
 “ shillings currency, in the capital stock of the Quebec bank, subject to
 “ the rules and regulations of the said bank.—Witness
 “ hand at the said bank, this day of
 “ one thousand eight hundred and
 “ Witness
 “ I (or we) do hereby accept the foregoing assignment of
 “ shares in the stock of the Quebec bank, assigned to as
 “ above mentioned, at the bank, this day of
 “ one thousand eight hundred and

CLASS G.

Relating to Public Works, Improvements and Property.

Public Roads.

1. Roads in general.
2. ——— winter.
3. ——— in Gaspé.
4. ——— turnpike near Quebec.
5. ——— near Montreal.
6. ——— Longueuil to Chambly.
7. ——— Temiscouata Portage.

Bridges which are Public Property.

8. Bridge over the river Cap-Rouge.
9. ——— Jacques Cartier.
10. ——— Chaudière.
11. ——— Ste. Anne.

Canals and other works connected with Navigation.

12. Chambly Canal.
13. Lachine Canal.
14. Harbour of Montreal.

Buildings connected with the Administration of Justice.

15. Court houses and gaols in counties.
16. ——— in judicial districts.
17. ——— in Gaspé.
18. Court house in Quebec and Montreal.
19. ——— at Three-Rivers.
20. ——— at Sherbrooke.
21. Gaol at Quebec and Montreal.
22. ——— old at Montreal, sale of.
23. ——— at Three-Rivers.
24. ——— at Sherbrooke.

Other Public Property.

25. Jesuits' Estates.
26. Parliament house at Quebec.

I. ROADS IN GENERAL.

An Act for making, repairing and altering the Highways and Bridges within this Province, and for other purposes.

30 Geo. III.
Cap 9.

WHEREAS it has been found by experience, that it is necessary to provide more ample and efficacious regulations for the opening of highways and roads and construction of bridges within this Province, and for the amending and repairing the same :—Be it enacted, &c., that all the King's highways and public bridges shall be made, repaired and kept up, under the directions of the grand-voyer of each and every district within this Province or his deputy, which deputy, being a fit and proper person and an inhabitant of the district wherein he is to act, the several grand-voyers are hereby authorized to appoint by an instrument to be executed by them respectively, (which appointment shall be notified in the Quebec Gazette,) and shall give their orders, subject to the provisions in this act contained, to the surveyors and overseers, to be appointed in manner as hereinafter is mentioned, in their respective districts.

Preamble.

See Tables.

King's highways to be under the direction of the grand-voyer.

But see Tables.

II. And be it further enacted, &c., that all the King's highways shall be thirty feet wide, between two ditches each of three feet wide and of sufficient depth to drain off the water; and where the said highways are not already thirty feet wide, the grand-voyer, if he shall think it necessary and practicable, shall cause them to be widened by the persons bound to repair the same.

King's highways to be thirty feet wide.

But see Tables.

III. And be it further enacted, &c., that all occupiers of lands, whether proprietors or farmers, adjoining to the King's highways, commonly called front roads, shall make and keep in good repair the said highways and ditches upon the breadth of their said lands respectively, and shall also make and keep in repair the bridges over ditches or streams of water, as well as the hills and bridges of the same, which are not declared by the *procès verbaux* of the grand-voyers or their deputies, respectively, to be such hills and bridges as ought to be kept in repair at the public expence: Provided always, that when the keeping in repair of highways on the breadth of the said lands, is to be borne by several proprietors facing each other, every occupier of a land, whether farmer or proprietor, shall keep up his part of the highway on the whole width thereof, agreeable to the division which shall be summarily and verbally made of the same, by the majority of three overseers not interested therein, who shall draw up a record thereof, and shall deliver a copy of it, if required, to each of the parties interested: Provided also, that no occupier, whether farmer or proprietor, whose land is not more than thirty arpents in depth, shall be obliged to make and keep in repair at his own expence, more than one highway or road on the breadth of his land; any law, *procès verbaux* or custom to the contrary notwithstanding.

Occupiers of lands to keep the roads and bridges in repair.

See Tables.

Proviso.

When the keeping of any highway in repair is to be borne by several occupiers.

Proviso, as to occupiers whose land does not exceed thirty arpents in depth.

IV. And be it further enacted, &c., that the King's highways extending in depth or communicating from one range of concessions to another, commonly called by-roads (*routes*) shall be twenty feet wide, between two ditches each three feet wide and of a sufficient depth to drain off the water, and shall always be made and repaired, as far as it may be practicable, on the line of division between two concessions or two proprietors; and the ditches and half of the fences, when the said roads are on a line of separation, or when they deviate from such line, the ditches and fences on both sides, shall be made and kept in good repair by those who are or may be bound to

By-roads to be twenty feet wide and how to be kept in repair.

But see Tables.

A proprietor furnishing the ground for a by-road may agree with those bound to keep it up, respecting the repairs of the same.

make and repair the said by-roads (*routes*,) agreeable to the *procès verbal* drawn up by the grand-voyer or his deputy, relative thereto: Provided always, that so far as regards the keeping in repair the ditches and fences above mentioned, it shall be lawful for the proprietors who have furnished the ground for making the said by-roads (*routes*,) and the majority of those who are or may be charged with keeping the same in repair, to agree among themselves respecting the repairs and keeping up the said ditches and fences, such agreement being made in writing before the grand-voyer or his deputy, or before the surveyor and two overseers of the parish, seigniority or township; and such agreements shall be binding and obligatory on all the parties interested therein.

No new road to be laid out until the value of the land marked out for a road be paid.

But see Tables.

V. And be it further enacted, &c., that all necessary highways and roads required to be made in future upon cleared lands, (the front roads provided by this act excepted,) shall not be opened or made until the value of the ground marked out for said highways and roads by the grand-voyer or his deputy, shall have been paid or offered to be paid to the proprietor or proprietors thereof, if he or they require it, to be fixed by a majority of seven appraisers, three of whom shall be named by the surveyor of the parish, seigniority or township, three by the proprietor or proprietors, and the seventh by the grand-voyer or his deputy; and on failure of the said nomination by the inspector or proprietor or proprietors, the same shall be officially made by the grand-voyer or his deputy.

Improved land taken for a road, to be paid for by the those applying for the same.

Overseers to apportion the payment.

See Tables.

Persons refusing to pay their proportion.

VI. And be it further enacted, that the price of the improved land marked out as aforesaid for such highway or road, shall be paid by the individual or individuals who shall have applied for the same, if it be a private road, or by the proprietors of the parish, seigniority or township, if it be a public highway; and the payment of the ground for such public highway shall be apportioned and divided by the overseers of the parish, seigniority or township, or by a majority of them, among the proprietors of the seigniority, parish or township to whom it shall be considered that the said road is most useful, in the *procès verbal* thereof drawn up by the grand-voyer or his deputy; and the said payment for such ground for such public highway, shall be made into the hands of the surveyor of the parish, seigniority or township, to be by him paid as is hereinbefore enacted; and in case any one shall refuse to pay his proportion agreeable to the apportionment of the overseers as aforesaid, it shall then be the duty of the surveyor of the parish, seigniority or township, to prosecute at law the person or persons so refusing, for his or their said proportions.

King's highways passing thro' wood lands conceded are to be opened and kept up by those benefited thereby.

See Tables.

VII. And be it further enacted, &c., that the King's highways, to be made through wood-lands not yet granted by the Crown, or through wood-lands in any seigniority, fief or township, not conceded by the original grantees of the Crown, also highways to be made through lands, which although conceded by such original grantees may be deserted, shall be opened, made, repaired and kept up by the persons that are more particularly benefited thereby, in proportion to their lands or concessions, and to which the seigniors or original grantees of the Crown shall contribute, in proportion to the private domains respectively reserved by them, and to which domains any such highways shall be of utility; and such highways shall be made, repaired and kept up by the persons as aforesaid, mentioned in the *procès verbal* drawn up by the grand-voyer or his deputy for the purpose, until such time as the land running along such highways respectively, shall be conceded by the original grantees thereof, or be reserved as a private domain, or be put into

a state of improvement, or be inhabited ; and so soon as lands shall be so conceded or be reserved as a private domain, or be put into a state of improvement or be inhabited, the occupiers shall make, repair and keep up their respective parts of any such highway, if the same be considered as the front road belonging to such lands ; and shall also make, repair and keep up their respective shares of every other joint highway to which they are respectively obliged by this act.

VIII. Provided always, and it is hereby enacted, that every person who shall have deserted lands conceded to him by the original grantees thereof, without legally giving up his titles thereto, shall incur the penalty imposed by this act on persons for not making, repairing or keeping up their parts of highways, and shall also be liable to pay the expences laid out on his part of such highway during his absence, or refusal or neglect to make, repair or keep up the same ; and such fine and such expences shall be prosecuted for by any surveyor or overseer as soon as the residence of any such person shall be discovered to or by any such surveyor or overseer.

Penalty on persons leaving their lands without surrendering their titles.

Fine &c. how to be sued for.

IX. And be it further enacted, &c., that in all cases where it shall be necessary to turn an old or open a new highway, or to turn an old or open a new by-road, (*route*) or to change an old bridge, or to mark out a new one, the grand-voyer or his deputy, on application made to him by petition, shall thereon give out an order fixing the day and hour when he or his deputy will attend at some house or place in the parish, seigniory or township where he is to act ; and such order shall require all and every one interested, to be there personally, to give to the grand-voyer or his deputy such information or reasons as either or any of them may think necessary and advantageous ; and the said petition and order shall be published by the surveyor or one of the overseers at the parish church door, on a Sunday or holyday, after the morning service, and if there is no church or accustomed place of worship, the publication shall be made at the church door of the nearest parish where the morning service is celebrated,—and if there is no church in the vicinity, then at the most frequented and reputed public place of the said parish, seigniory or township, on a Sunday, two days at least before the meeting of those interested ; and upon the surveyor or overseer's certificate of such publication, the grand-voyer or his deputy, after having heard the parties interested, so assembled, shall fix the time for visiting the places, in order that the said parties interested may attend if to them it seems meet, and he shall draw up his *procès verbal* by the which he shall grant or reject the whole or part of the said petition.

Proceedings when it is necessary to turn an old or open a new highway, &c.

But see Tables.

Public notice.

Such publication being certified, the grand-voyer to visit the places and draw up his *procès verbal*.

X. And be it further enacted, &c., that every road which shall be opened leading to a *banal* mill, shall be not less than eighteen nor more than thirty feet in width, between two ditches each of three feet, where necessary ; and the opening and making of such road and ditches, with the necessary fences, shall in the first instance be performed one-half by the proprietor or proprietors of such mill, and the other half thereof by the inhabitants subject to banality of the said mill, regard being had in the division between the said two parties to equalize the labour ; and such roads when so opened and made and also those already opened and made, shall with the ditches and necessary fences thereof, be divided into fourteen parts, in such manner as that each of such parts shall as nearly as possible be equal in respect to the labour necessary for keeping the same in repair ; when so divided, one of such fourteen parts (being the nearest to such mill) shall be allotted to the proprietor or proprietors of such mill, who shall keep the same in repair, and the other

Roads to banal mills.

See Tables.

Such roads &c. to be divided into 14 parts.

One part to be allotted to the proprietor.

And the rest
to the inhabit-
ants.

Proviso as to
such roads
coming front
or by-roads.

Trees to be
cut down for
the space of 25
feet on each
side of any
high-way.
Proprietors of
lands may re-
move the trees.

Proviso.

Ditches and
water-courses
how regulated.
See Tables.

Grand-voyer
to remove the
highways
from precipices,
&c.

No new high-
way to pass
through any
garden &c.
without the
consent of the
proprietor.

See also 2 V.
(3.) c. 7. s. 16.

thirteen parts of the same shall be kept in repair by the inhabitants subject to the banality of such mill; of which division and allotment a *procès verbal* shall be made by the grand-voyer or his deputy; and such roads shall be under the inspection and direction of the grand-voyer or his deputy and the surveyor or overseers, in like manner as King's highways are by this act: Provided always, that if a road leading to a *banal* mill now is or hereafter shall become a King's highway, commonly called a front road, or a King's highway, commonly called a by-road, (*route*) the same shall be governed by the rules and regulations established by this act for keeping in repair such highways respectively.

XI. And be it further enacted, &c., that on each side of all King's highways whatsoever, that do or shall pass through any wood, the trees and underwood shall be cut down for the space of twenty-five feet on each side, by those who are obliged to keep the said roads in repair, if the grand-voyer or his deputy shall judge it necessary: And it shall be lawful for the proprietors or occupiers of such lands, to remove within a year after the said trees and underwood are so cut down, such part of the said trees and underwood as may be of service to them; and in the course of the year following the expiration of said time, the trees and underwood or such part thereof as is not removed by the proprietors or occupiers of the said lands, shall be taken away by the persons obliged to keep the said highways in repair: Provided always, that it shall be lawful for the grand-voyer or his deputy, or the surveyor or overseer, to lay aside such part of the wood so cut down as abovesaid, as they may think necessary for the said highways and the bridges thereof.

XII. And whereas misunderstandings frequently happen among neighbours, from the overflowing of their ditches on the roads or from a want of outlets to the same, and as also many other inconveniences have arisen in different parts of this Province, from the want of ditches, which are found to be indispensably necessary for draining low and marshy lands through which the King's highways unavoidably pass:—Be it enacted, &c., that the grand-voyer or his deputy after examining such places, shall take the necessary steps in directing that such ditches and outlets be made, by such persons of the parish or adjacent parishes whom he shall deem the most interested therein, of which he shall draw up his *procès verbal*.

XIII. And be it further enacted, &c., that the highways passing near unto precipices, shall be removed therefrom to such distances as the grand-voyer or his deputy shall direct; and on highways running along the face of steep hills, the descents shall be made easy and there shall likewise be placed thereon solid rails, wherever he shall judge it necessary; and such work shall be done by those who are obliged to keep the said highways in repair.

XIV. And be it further enacted, &c., that nothing contained in this act shall be understood to extend to the giving authority to mark out any new highway or road, or turn or widen an old one, in such manner as that the same shall pass through any kitchen-garden or orchard, that is or shall be enclosed with a wall, board or standing picket-fence or hedge, of any person or persons, or to demolish or injure any house, barn, mill or other building whatsoever, to prejudice any canal or mill-dam, or to turn the course of the water thereof, without the consent of the proprietor or proprietors of the same; any law, custom or usage to the contrary notwithstanding.

XV. And whereas the making of public highways on certain soils in different parts of this Province, is not practicable but at a great and ruinous expence to the proprietors of the ground where the highways must necessarily pass, and that frequently the said highways belong to poor inhabitants whose land is barren :—Be it further enacted, &c, that the grand-voyer or his deputy, after an examination thereof, may cause such proprietors to be assisted from time to time, either for the making or heavy repairs of the same ; and he may require, by his *procès verbal* in such manner as is mentioned in this act, such persons of the neighbourhood or parish to work thereon, as to him shall seem meet.

The assistance of a parish, &c, may be required where highways are too great an expence to proprietors.

XVI. And be it further enacted, &c., that ditches dividing farms or concessions and little rivulets crossing the King's highways, shall be cleansed by those who are obliged to keep the highways in repair opposite to the outlets of the said ditches and rivulets, that the waters issuing therefrom may have a free course ; and they shall be covered with bridges of logs fifteen feet long,—which bridges, when they do not exceed four feet over, shall, in such places as the grand-voyer or his deputy may direct, be entirely covered with earth : Public bridges made by joint labour or *corvées* shall likewise be eighteen feet wide, the sleepers shall be either of oak, cedar, fir, hemlock or red spruce, according to the ease or facility there may be in conveying such wood, and agreeable to the order given by the grand-voyer or his deputy,—the flooring shall be of squared logs of the same wood, pinned down to the sleepers with a batten on each side, and there shall be a rail of three feet high on each side solidly made of square timber ;—and all water-courses, gullies and rivulets over which the said bridges are made, shall be cleansed, if it is necessary, by those who are obliged to make the said public bridges and are named in the *procès verbal* of the grand-voyer or his deputy : and all public bridges already built, or which may be built in future, as well as all public hills kept up by joint labour or *corvées*, shall be repaired by the inhabitants mentioned in the *procès verbal*, and in case of disputes among them, the grand-voyer or his deputy shall decide by whom the work ought to be done ;—and all bridges subject to be raised by the overflowing of the waters, shall be loaded with stones, which shall be carried and placed by those who are bound to build and repair the said bridges.

Ditches crossing highways to be cleansed, &c.

And to be covered with bridges of logs. Exception. Public bridges to be 18 feet wide.

And to be repaired by the inhabitants mentioned in the *procès verbal*. Bridges subject to be carried away.

XVII. And be it further enacted, &c., that any person whatsoever, either on horseback or in a carriage, who shall trot or gallop over any public bridge exceeding twenty feet in length, shall, for every such offence, pay a fine of five shillings.

Penalty for trotting &c. over bridges.

XVIII. And be it further enacted, &c., that the passes of fordable rivers intersecting the King's highways, or intersecting roads upon the beach, shall, as early in the spring as the waters will permit, be cleansed and marked out in a clear manner with poles or branches, by those who are obliged to mark out the winter roads over such passes, and the poles or branches shall be well secured in cross pieces of timber loaded with stones.

Fords over rivers to be cleansed, &c. and marked out with poles.

XIX. And be it further enacted, &c., that when the grand-voyer or his deputy shall not be required to distribute the work to be done on public highways and bridges, such distribution shall be made and assigned, by a majority of votes of the overseers of the parish, seignior or township, to the occupiers or proprietors of lands specified in the *procès verbal* of the grand-voyer or his deputy : And when it shall be necessary to pay artifi-

How the work shall be apportioned when the grand-voyer is not required to distribute it.

Expences for making any public bridge to be apportioned by the overseers.

Proviso.

cers or undertakers for making or conducting the work to be done on any public bridge, or to purchase materials for the same, the apportionment of the sum of money wanted, shall be made by the majority of the overseers of the parish, seigniory or township, and levied at the suit of the surveyor thereof, on those obliged by the *procès verbal* of the grand-voyer or his deputy, to work at such bridge : Provided always, that when the apportionments are not made as abovesaid, and until such time as they are made, it shall be lawful for the surveyors and overseers in their respective districts to order those who are or shall be bound to make or keep in repair such highway or bridge, (agreeable to the *procès verbal* of the grand-voyer or his deputy) to work in rotation thereon.

Justices to hear all matters relating to *procès verbaux*.
But see Tables.

Grand-voyers to deposit their *procès verbaux* with the surveyor of the parish, &c.

XX. And be it further enacted, &c., that it shall and may be lawful for the justices in their general quarter sessions of the peace, and they are hereby authorized and empowered to hear, examine and determine all matters and things relatively to *procès verbaux*, that shall be made in their district respectively, pursuant to this act, and in the manner herein after directed, and in all cases where the grand-voyer or his deputy, shall draw up a *procès verbal*, in consequence of any requisition to him made in conformity to this act, the same shall be deposited with the surveyor of the parish, seigniory or township, to which he belongs, to be read and published, on a Sunday or holyday, at the parish church door after the morning service, and where no service is performed, then at the most public and frequented place in the said parish, seigniory or township ; of which publication he shall draw up or cause to be drawn up, a certificate at the bottom of the said *procès verbal*, to which he shall sign his name, or if he cannot write, shall affix his mark, before two witnesses ; and the aforesaid *procès verbal* shall remain eight days at the house of the said surveyor, that the persons interested in the same may inform themselves thereof, and shall be afterwards registered in the grand-voyer's office with the certificate annexed to it ; and the grand-voyer or his deputy shall make mention in the *procès verbal*, to be published as above required, of the day that he will prosecute in the court of general quarter sessions of the peace for the district, the ratification thereof,—and shall deposit the said *procès verbal* in the clerk's office of the said court, eight days at least before the day fixed for its ratification, in order that the persons interested may obtain a copy and prepare their means of opposition, if any they have ; and after the day so fixed for the ratification, no opposition shall be received ; and the said court shall then, or any other day it may rule, hear the grand-voyer or his deputy and the opposers or those interested, if any appear, and shall do justice as well in the ratification or rejection of the aforesaid *procès verbal*, in the whole or in part ; and the judgment shall be given to the grand-voyer by the clerk of such court within eight days following, to be annexed to the register of *procès verbaux* in the office of the said grand-voyer, and afterwards a copy thereof to be delivered by him or his deputy to the aforesaid surveyor to be put in execution.

No encroachment to be permitted on any highway.

XXI. And be it further enacted, &c., that no encroachment, annoyance or nuisance whatever, shall be made or left by any person or persons in any of the King's highways, or in roads leading to banal mills, under a penalty of five shillings on each offender, who shall also be obliged to remove or take away immediately, at his own expence, all and every such encroachment, annoyance or nuisance.

XXII. And whereas the winds in winter cause, in this Province, the snow to gather in great heaps, the which prevents the roads being permanently fixed in that season :—Be it therefore enacted, &c., that the public roads in winter, shall be annually fixed throughout the Province, between the first day of October and fifteenth day of November of each year, by the overseers in the respective parishes : And the overseers, or a majority of them, shall agree upon the days and places they will meet for determining upon and fixing of the roads in their Districts ; and the days and places for such meetings shall be advertised on a Sunday or holyday at the parish church door after morning service, and where there is no accustomed place of worship, then in the most public part of the parish, that the persons interested in the said roads may attend, and that the overseers or a majority of them may hear the persons so interested, if any of them appear, and mark out the places where the said public winter roads should pass ; and they shall order the fences to be taken down where it may be necessary, and shall give such orders for the keeping up and repairs of the said roads, as they may think proper ; the which orders shall be followed and obeyed by all persons obliged to the said keeping up and repairs : And if any such person thinks himself injured by the orders given, he may appeal to the grand-voyer or his deputy, whose judgment thereon shall be final : Provided always, that it shall not be lawful for the overseers to cause to be taken down more than ten feet of any fence whatever, for the passage of the said winter roads ; nor to cause such roads to pass through any garden or orchard or field fenced with a quick hedge, without the consent of the proprietor or occupier of the land through which such road shall pass.

Public winter roads annually to be fixed by the overseers of the respective parishes.

See Tables.

Appeal.

Overseers not to take down more than 10 feet of any fences, &c. except by consent.

XXIII. And be it further enacted, &c., that all persons obliged by this act to keep in order and repair the King's highways and roads leading to banal mills, shall, upon the first fall of snow, fix poles or branches of spruce, cedar or hemlock on each side of the public winter roads ; the said poles or branches shall be at least eight feet in length, and shall not be fixed at a greater distance than thirty-six feet, one from the other, on each side of the road ;—and when they fall or are pulled up, the persons obliged to fix the same shall replace them without delay ; and the said persons shall also be obliged, immediately after a fall or drift of snow which may have filled up the said roads, to open and beat the same of width sufficient for the passage of one carriage,—and they shall likewise level the *cahots* and slopes as soon as they are formed.

Poles to be set upon each side of each winter road.

See Tables.

XXIV. And be it further enacted, &c., that the overseers or the majority of them in each parish, seigniory or township, so soon as the ice upon the river Saint Lawrence and upon other rivers in their district will permit, shall point out where the customary roads crossing the Saint Lawrence or other rivers are to pass, which roads shall be marked with poles or branches, made and kept in repair according to ancient custom ; and all roads on the ice in the front of farms shall be marked out with poles, made and kept in repair by those who are obliged to make the land roads on the banks of the Saint Lawrence and other rivers : Provided always, that it shall be lawful for the inhabitants of a parish, who at any time may think themselves aggrieved or oppressed by the work to be done as aforesaid, to require the grand-voyer or his deputy to make the distribution thereof either by parish or district, of which he shall draw up his *procès verbal*.

Overseers to mark out the customary roads across rivers.

Inhabitants aggrieved may appeal to the grand-voyer.

XXV. And be it enacted, &c., that the grand-voyer or his deputy shall divide every parish, seigniory or township of his district into such

Grand-voyer to divide pa-

ishes into divisions.

See Tables.

In each of which there shall be an overseer chosen by the householders.

But see Tables.

number of divisions, being not more than nine, as he shall judge proper and necessary, and to each of which divisions there shall be allotted by him an overseer of the highways and bridges, who shall be chosen in manner following, that is to say :—the grand-voyer or his deputy shall, in the month of August next and in the month of August every second year thereafter, issue an order to the eldest captain or senior officer of militia in each parish, seignior or township, for the purpose of electing overseers of the highways and bridges, who is hereby required upon receipt of such order, to fix and publish, or cause to be fixed and published at the church door or place of divine worship of the parish, seignior or township, after morning service, or where there shall not be a church or place of divine worship, then at the most public place in such parish, seignior or township, a day on which the householders thereof shall meet for the purpose of such election, which day shall be a Sunday or holiday between the first day of September and the fifteenth day of October, and not less than eight days after the day on which the publication shall be so made,—at which meeting the said eldest captain or senior officer of militia shall preside, and the same shall be held in the public room of the parsonage house of the parish, seignior or township, or where there shall be no such public room, then at such other place as shall be appointed by the said captain or senior officer of militia ;—and then and there the said householders, or the majority of them so assembled, shall choose a fit and proper person from among the householders of the parish, seignior or township, for each of the said divisions thereof, and residing as near thereto, respectively, as conveniently may be, to serve the office of overseer of highways and bridges, to oversee and direct the different persons within his division in the performance of the duties required of them by this act, for making and keeping in repair the roads and bridges thereof, and to prosecute every person or persons within his said division, or holding lands therein, who shall refuse or neglect to perform any such duties,—each of which overseers shall enter upon the execution of his office on the first day of January following, and shall serve for two years ; and any person so chosen and nominated to serve, who shall refuse or neglect to signify to the said captain or senior officer of militia, his consent to enter upon such service, for the space of eight days after such nomination, shall forfeit and pay the sum of five pounds, current money of this Province, for such refusal or neglect,—or who consenting to accept such office shall refuse or neglect to obey the lawful orders of the grand-voyer or his deputy, or to oversee and perform any of the duties required of him by this act, shall, for every such refusal or neglect, forfeit and pay the sum of twenty shillings ;—and it shall be the duty of every officer of militia who shall have presided as aforesaid at any such meeting, openly to declare to the persons so assembled, the names of the parties then and there chosen as overseers, and to make a return of such nomination and choice to the grand-voyer or his deputy within ten days after such meeting ;—and every such officer of militia who shall refuse or neglect to call such meeting or to preside therein, or to make such return, shall forfeit and pay the sum of five pounds for every such refusal or neglect.

At what time shall overseers enter into office : they shall serve two years.

Penalty on persons chosen who neglect to signify to the captain of militia their consent to serve.

Officer of militia to declare the persons so elected.

Penalty on officers refusing to call such meetings, &c.

Grand-voyer to appoint surveyors of roads.

But see Tables.

XXVI. And be it further enacted, that the grand-voyer shall at the periods aforementioned, nominate and appoint a fit and proper person in each parish, seignior or township of his district, as surveyor of highways and bridges therein : Provided always, that every such surveyor shall be an inhabitant householder, having resided for the space of three years in the

parish, seignior or township for which he shall be so nominated (unless the same shall be a new settled township) who shall enter upon office at the periods afore-directed for overseers, and continue to execute the same for two years; and also as often as a vacancy shall happen by refusal to serve, death or disability, the grand-voyer or his deputy shall nominate and appoint another fit and proper person to supply such vacancy, which person shall serve only till the next period for nomination and appointment to such office as aforesaid: and it shall be the duty of every surveyor so appointed and accepting such office, to superintend and direct the overseers within his parish, seignior or township in the performance of the duties of them required by this act, and to prosecute every overseer who shall refuse or neglect to perform any such duties; and also to communicate to such overseers the orders that he may occasionally receive from the grand-voyer or his deputy, and to forward such orders, if required, to the surveyor of the next parish, seignior or township; and also to report or cause to be reported in writing or verbally to the grand-voyer or his deputy, once in every six months, and also at the time of his circuit, the state of the roads and bridges within his said parish, seignior or township: and every person so appointed surveyor, who shall not within eight days after such appointment accept of office, shall for refusal or neglect thereof, forfeit and pay the sum of four pounds, current money of this Province; or who after accepting such office shall refuse or neglect to execute any of the duties thereof as aforesaid, shall forfeit and pay the sum of twenty shillings for every such neglect or refusal: Provided always, that no person so chosen and nominated and who shall have served the office of surveyor or of overseer, shall be liable to be re-chosen to serve either of such offices within eight years from such nomination and service, unless he shall consent thereto.

Surveyors to superintend the overseer within their parishes, &c.

And report on the roads and bridges to the grand-voyer.

Persons so appointed surveyors who do not accept the office shall forfeit 24.

But see Tables.

Certain persons exempted.

XXVIII. Provided also, and be it further enacted, that clergymen, captains of militia, licensed school-masters, and one miller to each mill, and persons upwards of sixty years of age, shall be exempted from being chosen or appointed surveyors or overseers of highways and bridges.

Clergymen &c. exempted as surveyors or overseers.

See Tables.

XXX. And be it further enacted, &c., that the grand-voyer or his deputy shall make an annual circuit through the highways leading from parish to parish within this district, between the twentieth day of May, and the twentieth day of October, that is to say,—the grand-voysers shall severally proceed to make the circuit of the upper part of their respective districts between the twentieth day of May and the first day of July, and of the lower parts of their respective districts between the fifteenth of September and the twentieth of October; and they shall severally insert an advertisement in the Quebec Gazette for two successive weeks previously to their departure, of the days on which they mean to set out and of the distribution of their time at particular places to be specified as nearly as circumstances will permit, and shall endeavour to obtain a true account of the state and condition of the highways and bridges therein, and more especially to procure information of the defects or nuisances that may have arisen and the encroachments committed upon any of the said highways and bridges, and also what repairs or amendments the same do want, and to give the necessary orders to the surveyors and overseers in consequence, to the end that the laws made in that behalf may be duly executed; and he shall commit to writing such observations made during his said circuit as he shall think necessary, a copy of which he shall deposit in the clerk's office of the court of general quarter sessions of the peace of his district, for the inspection of

Grand-voysers to make an annual circuit through their several districts.

But see Tables, also 2 V. (3). cap. 7.

Duty of grand voysers on such circuits.

Surveyors and overseers to attend the grand-voyer in such circuit.

Distance to which the grand-voyers of Quebec and Montreal are bound to go.

said court ; and also it shall be his duty in the said circuit to examine and inquire whether the surveyors and overseers duly execute their several offices, and in default thereof to prosecute them or either of them for neglect of duty ; and it shall be the duty of the surveyors in their respective parishes, seigniories or townships, and of the overseers in their respective divisions, to attend the grand-voyer or his deputy at such circuit, and to give him such information as may be necessary regarding the highways and bridges therein respectively : Provided always, that neither the grand-voyer of the district of Quebec nor his deputy, shall be obliged annually to proceed lower than the parish of St. Joachim on the north side, and the parish of Rivière du Loup on the south side of the river Saint Lawrence, nor the grand-voyer of the district of Montreal or his deputy, shall be obliged annually to go higher up than the foot of the *Long Sault* on the Ottawa river.

Grand-voyers, &c. finding highways and bridges in want of repair may employ labourers, &c. to be paid by these the same in repair.

Damages that may happen to travellers by the wilful neglect of persons bound to keep bridges in repair.

Bull, ox, &c. found straying or at large in the highways may be seized by any peace officer.

See Tables.

Peace officer, &c. seizing such animal to cause the same to be proclaimed at the

XXXI. And be it further enacted, &c., that whenever the grand-voyer or his deputy or any surveyor, and more especially any overseer as being part of their duty, shall find any part of the public highways or bridges in want of repair or any work to be done thereon neglected, he may, twenty-four hours after verbal notice given to the persons obliged to keep in repair the said highways and bridges, or twenty-four hours after public notice given at the church door of the parish, on a Sunday or holyday after morning service, or at the most public and frequented place of the parish, seignior or township, if there is no accustomed place of worship, employ labourers and carriages for making such repairs or doing such work, and the expence of such labourers and carriages shall be paid by those who were held to do the said works, over and above the fine imposed by this act ; and in case any damage shall happen to the person, horses or carriage of any traveller or other person, by the wilful neglect or default of any person or persons bound to keep any bridge in good repair, a right of action shall accrue to the party receiving such damage, against the person or persons bound by law to keep such bridge in repair, which they are hereby authorized to institute in any of His Majesty's courts of King's bench in this Province, and the case being supported and made out by full and sufficient proof, the court or jury shall be authorized to award such damages as shall appear reasonable, to be paid by the party or parties bound to such repair as aforesaid.

XXXVI. And be it further enacted, &c., that if any bull, ox, horse, goat or hog shall be found at large or straying in any highway inclosed on both sides, from and after the passing of this act, it shall and may be lawful for any peace officer, surveyor or overseer of the highways, to seize and detain, or cause to be seized and detained, every such bull, ox, horse, goat or hog, until the owner or owners thereof shall have paid to such peace officer, surveyor or overseer the sum of two shillings and six pence currency, for every bull, ox, horse, goat or hog so detained, over and above the sum of one shilling, currency, a day, for every day that every such animal as aforesaid, shall remain in the custody of any such peace officer, surveyor or overseer.

XXXVII. Provided always, and it is hereby enacted, that the peace officer, surveyor or overseer so seizing and detaining any animal as aforesaid, shall cause the same to be proclaimed at the church door of the parish in which the same shall have been so seized and detained, for three Sundays next following every such detention, immediately after divine service in the

morning, unless such animal as aforesaid shall be sooner claimed by the church door owner or owners thereof, and the sum or sums hereinbefore mentioned of the parish. paid to the peace officer, surveyor or overseer seizing and detaining the same; *See Tables.* and if any such animal as aforesaid, shall not be claimed after the third proclamation aforesaid, it shall and may be lawful for the peace officer, surveyor or overseer seizing and detaining the same, and he is hereby required to And sold. sell or cause to be sold every such animal as aforesaid publicly at the church door of the parish where the same shall have been seized and detained, in manner hereinbefore directed, on the Sunday next following such proclamation, immediately after divine service in the morning; and after deducting from the money for which any such animal as aforesaid, shall be sold, the sum or sums hereinbefore directed to be paid to the peace officer, surveyor or overseer seizing and detaining the same, the surplus (if any there be) shall be paid to the respective road treasurer if the same shall have been seized in the parish of Quebec or Montreal, or if the same shall have been seized in any other part of the Province, it shall then be paid to the grand-voyer of the district, to be applied to the making and repairing the highways of the district in which the same shall have been seized:—and in case Disputes how to be settled. a dispute shall arise between any peace officer, surveyor or overseer and the owner or owners of any such animal as aforesaid, seized and detained as hereinbefore directed, touching the seizing, detaining or keeping of the same, such dispute shall and may be determined in a summary manner by any justice of the peace for the district in which such dispute shall arise, after hearing the parties and the evidence by them respectively adduced: Pro- Owners proving their property to be repaid the money for which such animal was sold. vided always, that if the owner of any animal as aforesaid, seized and sold as aforesaid, shall appear and prove his property before a justice of the peace, within twelve calendar months from the time such animal as aforesaid shall have been sold, then and in such case, the grand-voyer or road treasurer, as the case may be, shall on the order of such justice, repay to such owner a sum equal to the monies by him received for such animal as aforesaid, to be taken out of any monies in his hands arising by virtue of this act.

XXXVIII. And whereas the aforesaid regulations are inapplicable to the cities and parishes of Quebec and Montreal, and further and other regulations are necessary regarding the same:—Be it therefore further enacted, &c., that nothing hereinbefore contained relative to the powers and duty of the grand-voyer or his deputy, or to the manner of appointment of surveyors or overseers, or to the labour by which highways and bridges are to be made and kept in repair or relative to any matter or thing hereinafter specially provided for, shall extend or be construed to extend to the said cities and parishes or to either of them. Nothing here- in contained to extend to the parishes of Quebec and Montreal. But see Tables.

XXXIX. And be it further enacted, &c., that the justices of the peace for the districts of Quebec and Montreal respectively, shall be and they are hereby appointed and authorized as hereinafter directed, to lay out and to regulate the highways, streets and bridges within the cities and parishes aforesaid, in which they shall respectively act. Powers to the justices of the peace for the districts of Quebec and Montreal. See Tables.

XLII. And be it further enacted, &c., that where the ditches, drains or water-courses which have been heretofore made, are not (when repaired, cleansed and kept open by the statute labour hereinafter authorized) sufficient to carry off the water which shall lie upon and among the highways or streets, that then and in every such case it shall and may be lawful for the said surveyors or overseers, by the order of any two or more of the said justices, to make new ditches and drains in and through the lands and Ditches heretofore made not being sufficient to carry off the water, others may be made by the surveyors, &c.

Surveyors &c.
to make proper
bridges over
such drains,
&c.

grounds adjoining such highways or streets, or in and through any other lands or grounds (not being a garden or orchard) if it shall be necessary, for the more easy and effectually carrying off such water from the said highways or streets, and also to keep such ditches, drains or water-courses scowered and cleansed,—and the said surveyors and overseers, and their workmen, are hereby authorized to go upon the said lands and grounds for the purpose aforesaid: Provided always, that the said surveyors or overseers make proper bridges over such ditches, drains or water-courses, or cover the same where it shall be necessary, for the convenient enjoyment of the lands or grounds through which the same shall be made,—and from time to time do keep the same in repair, and do also make satisfaction to the owner or occupier of such lands or grounds which are not waste or common, for the damages which he, she or they shall sustain thereby,—which damages (if the parties interested and any two or more justices shall not agree in adjusting the same) shall be estimated by two indifferent persons, the one to be named by the owner of the land, and the other by the said two justices, and if the persons so to be nominated cannot agree therein, they shall chose some third person to adjudge the same, whose determination shall be final;—and the money at which such damages shall be estimated or adjudged, shall be paid out of any monies in the hands of the road treasurer of the limits where such ground shall lie, arising by virtue of this act.

**Proprietors of
houses, &c. to
keep in repair
the ditches &c.
under their
houses, &c.**

XLIII. Provided also and it is hereby enacted, that the proprietor or proprietors of any house or houses, building or buildings, which is, or are, or hereafter shall be erected, over any such ditch, drain or water-course, shall, within eight days after being thereunto required by the surveyor or overseer, repair, cleanse and keep open the part thereof immediately under his, her or their houses or buildings, respectively,—or if he, she or they shall not within such time as aforesaid repair, cleanse and keep open such part of such ditch, drain or water-course, at his, her or their expence, then it shall and may be lawful for the surveyor or overseer and their labourers, to enter such, his or their houses and buildings, respectively, for the purpose of repairing, cleansing and keeping open such ditch, drain or water-course at the public expence.

**Justices may
widen high-
ways &c. in
certain cases.
But see Tables.**

XLIV. And be it further enacted, &c., that the said justices, or any three of them, (one of whom to be of the quorum) be and they are hereby authorized and empowered to regulate the highways, bridges, streets, market-places, squares and lanes already laid out,—and if any of them shall appear to be too narrow or otherwise inconvenient, and that an alteration be necessary, and the same be certified on oath by twelve principal householders of the district, to be summoned by the sheriff by virtue of a warrant to be issued by two justices of the peace for that purpose, the said justices or any three of them may widen or alter the same, and also, on compliance with the same formalities, may lay out such other public highways, streets, market-places, squares and lanes, and may erect such bridges as they or any three of them shall think most convenient, as well for the inhabitants of the said cities and parishes, respectively, and of those adjoining thereto, as for travellers,—and which highways, bridges, streets and lanes so widened, altered or laid out, shall (describing the width, direction, and other particulars necessary regarding the same) be recorded in the office of the clerk of the peace, in a book to be by him kept for the purpose.

XLV. Provided always, and it is hereby enacted, that no highway so to be widened or altered, and no new highway so to be laid out, shall be less in width than thirty feet, exclusive of the ditches which may be necessary to such highway; and that no street so to be widened or altered, and no new street so to be laid out, shall be less in width than thirty feet; and that where a highway, street, market place, square or lane shall hereafter be laid out through improved lands, or where it shall be necessary to alter or enlarge any of those already laid out and passing through such lands, it shall and may be lawful for the said justices, or any three of them, and they are hereby required to view the same, and endeavour to make an agreement with the owner or owners of such improved lands for the recompense to be made for such ground, and for replacing the fences thereto in same state as before, if necessary; and if they cannot agree with the said owner or owners, or if the owner or owners shall refuse to take such recompense as shall be offered by such justices, then such recompense shall be estimated and adjudged in the manner hereinbefore directed, for the estimation of damages occasioned by the making of ditches and drains: *Provided also, that where the owner or owners cannot be found, or shall refuse to treat or to name a person as aforesaid, to estimate such recompense,—then the justices of the peace at any general quarter sessions of the peace to be holden for the district where such ground shall lie, upon certificate in writing of their proceedings in the premises, signed by the justices making such view, and upon proof of fourteen days notice in writing having been given to the owner, occupier or other person interested in such ground, or to his or her guardian, curator, trustee, or agent, signifying an intention to apply to such quarter sessions for the purpose of taking such ground, shall impanel a jury of twelve disinterested men, out of the persons returned to serve as jurymen at such quarter sessions; and the said jury shall upon their oaths assess the damages to be given and recompense to be made to the owner or owners, as they shall think reasonable, for such grounds and for replacing the fences thereto in the same state as before if necessary; and upon payment or tender of the money so agreed upon, or so estimated by indifferent persons, or so awarded by the jury, as the cases may be, to the person or persons entitled to receive the same,—or leaving it in the hands of the clerk of the peace of the district, in case such person or persons cannot be found or shall refuse to accept the same, for the use of the owner or others interested in the said ground,—the interest of the said person or persons in the ground, shall be divested out of them, and the same shall be taken to be a public highway, street, market-place, square or lane as the case may be; and the money necessary for such recompense shall be paid out of any monies in the hands of the road treasurer of the limit where such ground shall lie, arising by virtue of this act: *Provided further, that neither of the powers hereby granted do extend to pull down any house or building, in any case whatever, nor to take away the ground of any court yard, garden or orchard, for the purpose of laying out any new street, market-place, square or lane, without the consent of the owner or owners thereof: *Provided also, that where it shall be found that any proprietor or occupier of any land or lot of ground adjoining a highway, street, market-place, square or lane, has encroached upon such highway, street, market-place, square or lane, then and in every such case, no recompense shall be allowed for any ground so encroached upon, that shall be necessary to be resumed for enlarging such highway, street, market-place, square or lane, nor for the fences which may have been erected on such encroachment.***

No highways to be less than 30 feet.

But see Tables.

Proviso.
Where no owner can be found or shall refuse to treat, &c. to estimate a recompense, justices to impanel a jury who are to assess damages.

Not to extend to pull down any house, &c.

Proprietors, &c. encroaching on any highway, &c. not entitled to any recompense.

In case the jury shall assess more than was offered by the justices, the costs of the proceedings shall be paid by the road treasurer.

Otherwise by the opposite party.

See Tables.

All highways become useless or unnecessary to belong to such person from whom such highway was originally taken.

Proviso.

See Tables.

Justices may order which of the highways shall be first repaired.

See Tables.

Surveyors or overseers may take and carry away any rubbish, &c. from any quarry for mending the highways, &c.

See Tables.

And may take gravel, &c., from other places.

XLVI. And be it further enacted, &c., that in case such jury shall give in and deliver a verdict for more monies as a recompense for such lands or grounds, or for replacing such fence of aforesaid, than what shall have been proposed and offered by the said justices before such application made to the court of quarter sessions as aforesaid, that then and in such case, the costs and expences attending the said several proceedings, shall be borne and paid out of any monies in the hands of the road treasurer, arising by virtue and under the powers of this act; but if such jury shall give and deliver a verdict for no more or for less monies than shall have been so offered and proposed by the said justices, before such application to the said court of quarter sessions, that then the said costs and expences shall be borne and paid by the person or persons who shall have refused to accept the recompense and satisfaction so offered to him, her or them as aforesaid.

XLVII. And be it further enacted, &c., that in all cases where by the alteration of the direction of a highway, or by the making of any new highway as aforesaid, any old highway should become unnecessary for the public, that then and in such case such old highway shall belong to the person or persons who respectively is or are proprietor or proprietors of the land from which such old highway was originally taken; unless that such person or persons shall be entitled to a recompense for such new highway or any part thereof as aforesaid; in which case such old highway shall be valued by the said justices or any three of them, and the amount thereof, or the respective part thereof as the case may be, deducted from the recompense so to be respectively allowed as aforesaid, to any such person or persons; but if such old highway shall lead to any land, house or place, which cannot in the opinion of such justices, be accommodated with a convenient way and passage from such new highway, then and in such case the said old highway shall remain subject to the right of way and passage to such lands, house or place, respectively.

XLVIII. And be it further enacted, &c., that the said justices or any three of them, may by writing under their hands and seals, order and appoint those highways, bridges, streets, market-places, squares, lanes and drains, which in their opinion do most want repair, within their jurisdiction, to be first amended or paved, and at what time, and in what manner the same shall be amended or paved; according to which order, the respective surveyors and overseers are hereby required to proceed within their respective limits.

XLIX. And be it further enacted, &c., that for the better making and keeping in repair the said highways, bridges, streets and lanes, and providing materials for that purpose, it shall and may be lawful to and for every surveyor and overseer as aforesaid, to take and carry away, or cause to be taken and carried away, so much of the rubbish or refuse stones of any quarry or quarries, lying and being within the parish where he shall be surveyor or overseer, or the parishes immediately adjoining thereto, without the licence of the owner or owners of such quarries, as they shall judge necessary for the amendment of the said highways, bridges, streets and lanes,—but not to dig or get stone in such quarries, without leave of the owner or owners thereof; and also, that it shall and may be lawful for every such surveyor or overseer, for the use aforesaid, in any waste land or common ground, river or brook within the parish, or within any other parish or place wherein gravel, sand or other materials are respectively likely to be found, (in case sufficient cannot conveniently be had within the parish where the same

are to be employed, and sufficient shall be left for the use of the roads in such other place) to search for, dig, get and carry away the same,—so that the said surveyor or overseer doth not divert or interrupt the course of such river or brook, or prejudice or damage any building, wall, highway or ford, nor dig or get the same out of any river or brook within the distance of one hundred feet of any building, wall, bridge or dam,—and likewise to gather stones lying upon any lands or grounds within the parish where such highways, bridges, streets or lanes shall be, for such service and purpose, and to take and carry away so much of the same, as the said surveyor or overseer shall think necessary to be employed in the amendment of the said highways, bridges, streets or lanes, without making any satisfaction for the same ; but satisfaction shall be made for all damages done to the lands or grounds of any person or persons, by carrying away the same ; to be estimated and paid as hereinbefore directed for the damages arising by making ditches and drains ; but no such rubbish, stones or refuse stones shall be gathered, taken or carried away without the consent of the occupier of such lands or grounds or a licence from two justices of the peace, after having summoned such occupier to come before them, and heard his reasons, if he shall appear and give any, for refusing his consent ; and if any bridge, mill, dam, wall or building shall be damaged by digging as aforesaid, by order of any surveyor or overseer, every offender therein shall forfeit for such offence, a sum not exceeding five pounds, besides being liable to a prosecution by the party injured, for special damages.

Satisfaction to be made in certain cases.

L. And be it further enacted, &c., that if any surveyor or overseer or person employed by him, shall by reason of the searching, digging or getting any gravel, sand, stone or other materials, for repairing any highways, bridges, streets or lanes, make or cause to be made any pit or hole in any such lands or grounds, rivers or brooks, whereby accidents may happen to persons or cattle, such surveyor or overseer shall cause the same to be either sloped down, filled up, or sufficiently fenced off, and such fence kept in repair ; and in case any such surveyor or overseer shall neglect to slope down, fill up, or fence off such hole or pit, for the space of ten days after he or they shall have received notice for either of those purposes, from any justice of the peace, or from the owner or occupier of such ground, river or brook, or any person having right of common within such common or waste lands as aforesaid, and such neglect and notice shall be proved upon oath before one or more justices of the peace, such surveyor or overseer shall forfeit and pay a sum not exceeding two pounds currency, for every such neglect, to be determined and adjudged by such justice or justices, to be laid out and applied to the sloping, filling up or fencing such pit or hole, and towards the repair of the highways of the parish, in such manner as the said justices shall direct and appoint ; which forfeiture in case the same be not forthwith paid, shall be levied by distress and sale of the offender's goods and chattels, in such manner as distress and sales for other forfeitures, are directed to be levied by this act.

Surveyors searching for gravel, &c. who shall make any pits whereby accidents may happen are to cause the same to be sloped down or filled up.

Penalty on surveyors for neglect.

LII. And be it further enacted, &c., that the highways, bridges, streets, market places, squares and lanes in the cities and parishes of Quebec and Montreal, shall be made, repaired, paved and maintained by the inhabitants of said cities and parishes, respectively, in manner following, that is to say : every man of the age of eighteen years and under the age of sixty years, not being *bona fide* an apprentice or a menial servant, and not keeping a horse or horses, shall, either in person or by a sufficient substitute, work on

Inhabitants of Quebec and Montreal to repair the highways, &c.

the highways, bridges, streets, market places, squares and lanes, on every day and at every place to be appointed by the surveyor of the city and parish where he shall reside, for any space of time not exceeding six days in every year ; and every person keeping a horse or horses shall, either in person or by a sufficient substitute, work as aforesaid on every day and at every place to be appointed by the said surveyor, for any space of time not exceeding six days in every year, and further for any space of time not exceeding four days in every year, for each and every horse (colts excepted) that any such person shall keep ; and it shall and may be lawful for the said surveyor, if he shall find it necessary, upon due notice thereof given to any person keeping a horse, to require any such person to send a cart or tilt cart with one horse and one able man to drive the same,—or if keeping two or more horses, to require any such person send a cart or tilt cart with two horses and one able man to drive the same ; in which cases a driver with one horse and a cart or tilt cart shall be held and taken as equivalent to two days personal labour of one man, and a driver with two horses and a cart or a tilt cart, shall be held and taken as equivalent to three days personal labour of one man ; and all such persons as aforesaid, whether with or without horses and carriages, shall respectively bring with them, either a shovel, spade or pickaxe, or if any of them shall be so directed, an axe ; and shall diligently perform the work and labour to which they shall be respectively appointed by the overseer, from five of the clock in the morning to seven of the clock in the evening, if between the first day of May and the first day of August, allowing three hours out of such time for refreshment,—or from sun rise to sun set, if between the first day of August and the first day of May, allowing two hours out of such time for refreshment, on every of the days on which they shall respectively work ; and if any person sending a cart or tilt cart as aforesaid, shall not send a sufficient driver, or if any such driver or any labourer shall refuse to work and labour during the time above mentioned, according to the directions of the overseer, or if any driver shall refuse to carry proper and sufficient loads,—it shall and may be lawful for such overseer to discharge every such driver, cart or tilt cart or such labourer, and to recover from the owner of every such cart or tilt cart or from such labourer, the forfeiture which every such person or persons would have incurred by this act, in case no such driver or cart or tilt cart had been sent, or such labourer had not attended : Provided always, that if the whole statute labour by this act directed, shall in any year be considered by the said justices as unnecessary to be performed, in such case a proportionable abatement or deduction thereof shall be made to every person subject thereto as aforesaid.

Overseers
within the said
cities and par-
ishes to leave
at the place of
abode of per-
sons liable to
the perform-
ance of the
duty imposed,
notice of the
time and place
at which the
same is to be
performed.
See Tables.

LIII. And be it further enacted, &c., that each overseer within the cities and parishes aforesaid, shall from time to time, in conformity to the directions which he may receive from the surveyor of his city and parish, give to every person, or leave or cause to be left at the house or usual place of abode of every person within his division, liable to perform the duty and labour by this act directed, three days notice at the least, of the day, hour and place upon which each of the said day's duty shall be performed ; and every person possessed of two or more horses having been duly summoned as aforesaid, and not having paid such composition as hereinafter is mentioned, who shall make default in sending a cart or tilt cart and two horses with an able man to drive the same, and with such tool or instrument as aforesaid, shall for every day's default, forfeit and pay the sum of six

shillings currency,—or if notified to send a cart or tilt cart and one horse with a driver, and making default therein, shall for every such default forfeit and pay the sum of four shillings currency; and that every person having been duly summoned to perform personal labour and not having paid such composition as hereinafter is mentioned, who shall not appear or send a sufficient substitute with such tool or instrument as aforesaid, at such time and place as by the said notice shall be directed, shall forfeit and pay for every day's default, the sum of two shillings currency; and the said surveyors and overseers shall demand and require such duty and labour from every person liable to perform the same, according to the directions of this act, without favor or partiality; and every overseer shall and may and is hereby required, with all convenient speed after default made by any person or persons as aforesaid, to demand and to prosecute for the recovery of the penalties and forfeitures hereby inflicted, in manner directed by this act: Provided always, that in order to prevent as much as possible inconvenience to the persons liable to perform statute duty in the parishes aforesaid, no occupier of a farm or of land in cultivation within the said parishes, shall be subject to be called forth to labour as aforesaid during seed-time, harvest-time, or harvest, but shall perform the duty under this act at such other times as shall be required, under the penalties aforesaid.

Penalties on persons disobeying.

Provide:

But see Tables.

LV. Provided further, and it is hereby enacted, that the surveyors of the aforesaid cities and parishes, respectively, shall annually on or before the third Sunday in the month of March, give or cause to be given public written notice at the churches of the said cities, of the time and place when and where persons inclined to compound for the said duty, may signify such their intention to the said surveyor; and all and every person signifying the same who shall then pay to the surveyor, or within the space of one calendar month after the date of such public notice, pay to the overseer of his division, the composition money authorized and allowed by this act, shall be discharged from the performance of such duty; and the said composition money shall be employed by direction of the justices, for the use of the highways, streets and bridges, and for hiring labourers and others to work thereon; but in case the said composition money be not paid within one month as aforesaid, the parties neglecting to pay the same, shall be considered defaulters and shall be liable to the same forfeitures as they who shall make wilful default; and all monies so paid to the surveyors or overseers shall be by them immediately paid over to the road treasurers for the said cities and parishes, respectively: Provided also that the statute labour hereinbefore mentioned, or the composition money authorized for the same, shall not be required of or from any officer, non-commissioned officer or soldier of any regiment or part of a regiment or corps, in garrison in the cities of Quebec or Montreal for the time being, unless that any such officer be upon the staff of the army serving in the Province, or upon the staff of the garrison.

Surveyors to give notice to persons inclined to compound.

But see Tables.

Provide.

Officers, &c. exempted from statute labour.

Exception.

LVII. And whereas the part of the statute duty and labour aforesaid, or of the composition money authorized to be taken for and in lieu of the same, which the justices may in their discretion judge expedient to be applied towards the making, amending and keeping in repair the streets, causeways, pavements, bridges, drains, water-courses, sewers, market places, squares and lanes, within the said cities of Quebec and Montreal, will be insufficient for these purposes; and for that end it will be expedient to raise a further sum of money; therefore be it further enacted, &c., that the justices at any general quarter sessions of the peace, to be holden at such cities respective-

Justices to fix on the rate of assessment to be made annually on occupiers of lands, &c.

See Tables.

But see Tables.

Mode and time
of appointing
persons make
such assess-
ment.

Valuation of
property, &c.

Publication of
assessment,
and appeal by
persons aggrieved

Application of
monies.

ly, shall and may, and are hereby empowered and required to fix and determine upon the rate of an assessment, to be made once in every year, upon all and every the occupier or occupiers of lands, lots, houses and buildings, in proportion to the annual value thereof, within the cities aforesaid, as respectively bounded by the proclamation, issued on the seventh day of May one thousand seven hundred and ninety-two, for dividing this Province into counties, cities and towns; which assessment shall be applied towards the making, amending and keeping in repair the streets, causeways, pavements, bridges, drains, water-courses, sewers, market places, squares and lanes, within the limits of the said cities, bounded as aforesaid, wherein such assessment shall be made respectively: And the said justices at the general quarter sessions to be held in the month of October, shall annually appoint five good and sufficient householders to be assessors, who shall be taken from a list of fifteen, to be annually nominated by the grand jury of the district returned to serve at the said quarter sessions, and in case that the said grand jury shall not make such list and nomination, then the said justices shall appoint such persons as they shall think fit and proper to be assessors; which householders so appointed assessors, shall enter upon office the first day of January following, and shall each of them accept the office and serve for one year under the penalty of ten pounds currency, for refusal or neglect to signify their acceptance thereof, respectively, to the clerk of the peace, within ten days after notice of such appointment to them severally signified or left at their usual places of abode; and each of them, before they enter upon the execution of their trust, shall be duly sworn before the justices in their weekly sittings (who are hereby authorized and required to administer such oath) to make an assessment on all lands, lots, houses and buildings to be assessed by virtue of this act, within the city, bounded as aforesaid, where they shall respectively serve, according to the best of their skill and judgment, without favour, affection, partiality or prejudice to any person or persons; and the said assessors or any three of them shall make an estimate of the annual value of all lands, lots, houses and buildings to be assessed by value, and shall specify the sum to be paid by each and every person or persons occupying property so estimated, according to the rate of assessment for the year, as fixed and determined upon by the said justices; and the said estimate and sum to be paid by each and every person or persons, when so made out by the said assessors or any three of them, shall be certified under their hands and seals, and delivered to the clerk of the peace of the district, within two months after the said assessors shall have been required by the said justices, or any three of them, to make out and certify the same, under the penalty of ten pounds on each assessor who shall refuse or neglect the same; and the said estimate and assessment being so made, certified and delivered, shall be made public within each respective division, in such manner as by the said justices shall be deemed most convenient; and in case any person shall be aggrieved by such assessment, it shall and may be lawful for such persons to appeal therefrom to the next general quarter sessions to be hold after such publication, and the adjudication given in the said quarter sessions shall be final and conclusive touching the matters in question; and the said assessment shall be collected by the overseers, under the direction of the surveyors, in such manner as the said justices, by their order at any general quarter sessions shall direct and appoint in that behalf; and the money thereby raised, shall be paid by the person or persons collecting the same, into the hands of the road treasurer, and shall be employed and accounted for according to the orders and directions of the said justices, for

and towards all or any of the purposes above-mentioned, from time to time, as need shall require, within such city and parish where the same shall be assessed and collected: Provided nevertheless, that the assessment herein before authorized shall not in one year exceed the rate of four pence in the pound of the yearly value of the lands, lots, houses and buildings so assessed. Limit of assessment.
But see Tables.

LIX. Provided further, and it is hereby enacted, that where any street, market-place, square or lane adjoining to any lot, house or building is already paved, the said assessors shall make a valuation of the pavement so adjoining to every such lot, house or building, according to the state and condition thereof at the time of such valuation; and the said assessors shall accordingly make, certify and deliver a list of such valuations to the clerk of the peace as hereinbefore directed; and accounts shall be kept by the surveyors, of every pavement so valued and of the amount of the assessments made from time to time on the lot, house or building respectively adjoining thereto; which assessments shall be set off against such valuations of pavements respectively, until that such assessment or assessments shall amount to the said valuations respectively; after which time the assessments shall be collected as hereinbefore directed. Assessors to estimate the value of pavements already made.
See Tables.

LX. Provided further, and it is hereby enacted, that the amount of any such assessment as aforesaid, may be deducted by the lessee or lessees of any lands, lots, houses or buildings out of the rent thereof, except where an agreement shall have been made relative to such assessment, in which case such agreement shall be observed. Amount of assessment to be deducted by the lessee.
See Tables.

LXI. Provided also, and be it further enacted, &c., that no lot of ground which (together with the houses and buildings thereon erected) does not exceed the annual value of five pounds, currency, and no lots, houses or buildings occupied by any of the religious communities of women, and no grounds without the fortification walls of the said cities, respectively, used for pasture, hay land, or for raising grain, shall be assessed under this act. Certain real property exempted from assessment.
See Tables.

LXII. And whereas it is expedient that public buildings, dead walls and void spaces of ground belonging to government or societies should be assessed towards the paying and repairing the streets, market-places, squares and lanes within the aforesaid cities, by some rule more proper in respect to such buildings, dead walls, and void spaces of ground, than that of the annual value thereof:—Be it therefore further enacted, &c., that it shall and may be lawful to and for the said assessors or any three of them, and they are hereby required, when and at such time and times as the assessments hereby authorized shall be made, to assess all churches, church-yards, chapels, meeting-houses, schools, convents, barracks, gaols, dead walls, and void spaces of ground belonging to government, or to any joint or incorporated body, or to any public society or private persons, and all other public buildings whatsoever (excepting as hereinbefore excepted) adjoining to any market-place, street, square or lane, situate, lying and being within the cities aforesaid, at a rate to be settled by the said assessors to the best of their judgment in a reasonable proportion to the length of pavement adjoining to any such church, church-yard, chapel, meeting-house, school, convent, barrack, gaol, dead wall, void space of ground or any other public building whatsoever, of which assessment a list shall be certified and delivered to the clerk of the peace, as hereinbefore directed; from which assessment it shall and may be lawful for any person or persons thinking themselves Churches, &c. may be assessed.
See Tables.
Appeal given.

Property be-
longing to the
Crown;

Or to corpora-
tions, &c.

Persons as-
sessed refusing
to pay the
sums for which
they are assess-
ed, the same
to be levied by
distress and
sale.

But see Tables.

Assessment
made on houses
occupied by
several per-
sons, the same
to be paid by
the owner, &c.
of any part of
such house.

See Tables.

Saving his
recourse a-
gainst others.

Persons assess-
ed who quit
the premises
without paying
such assess-
ment, the same
may be levied
by distress and
sale.

aggrieved thereby, to appeal to the next general quarter sessions to be holden after such certifying and delivery as aforesaid, and the adjudication of the said court of quarter sessions shall be final and conclusive in the premises; and if any of the buildings, dead walls or void spaces of ground as aforesaid, belong to His Majesty, or be occupied for his use, then the sums so assessed shall be paid out of any unappropriated monies in the hands of the receiver general of this Province, upon warrant of the Governor, Lieutenant-Governor, or person administering the government for the time being, to him directed for that purpose; and if any of the buildings, dead walls or void spaces of ground as aforesaid, belong to any joint or incorporated body, or to any public society, then the sums so assessed thereon, shall be respectively paid by the church-wardens, trustees or other person or persons, respectively, having the management or direction thereof or of any funds belonging to the same.

LXIII. And be it further enacted, &c., that if any person shall refuse or neglect to pay the sum or sums assessed upon him or her, by any assessment so to be made in pursuance of this act, within thirty days after demand thereof made, the same shall and may be levied by the surveyor or overseer, or any other person or persons authorized by warrant under the hands and seals of any two justices of the peace having jurisdiction therein, by distress and sale of the goods and chattels of the person so refusing or neglecting, rendering the overplus to the owner or owners thereof, the necessary charges of making such distress and sale being first deducted.

LXIV. And whereas, houses or other buildings may be let to divers tenants or lessees, whereby it will be difficult to collect their respective proportions of an assessment upon the whole house or building by them occupied:—For remedy whereof, be it further enacted, &c., that when an assessment as aforesaid, shall be made upon any house or building owned or occupied by several persons, such assessment shall be paid by any owner or owners, occupier or occupiers of any part of such house or building; and in case any owner or owners, occupier or occupiers of any such house or building shall refuse to pay the same, then the said assessment shall be levied by distress and sale of the goods and chattels of him, her or them so refusing to pay the same, which distress and sales are by this act directed to be made; and such owner or owners so paying more than his, her or their proportions of such assessment, is and are hereby authorized to recover of the other owner or owners, what he, she or they ought to have paid of such assessment, with all costs and charges attending the recovery of the same; and such occupier or occupiers so paying the whole sum assessed upon any such house or building, or a greater part thereof than his, her or their proportion, is and are hereby authorized to deduct the same out of the rent due, or to grow due by him, her or them; reserving to the owner or owners, any claim that they may respectively have to reimbursement thereof from any such occupier or occupiers, by virtue of any agreement regarding the same.

LXV. And whereas, it may happen that some persons liable to, and that may be charged and assessed as aforesaid, may before the sums which shall be so assessed on them respectively, shall be paid, quit and leave the premises so assessed, and thereby endeavour to evade the payment of such assessment:—Be it therefore further enacted, that where any person or persons who hath or have been so assessed, shall quit and leave the premises for which he, she or they hath or have been so assessed; before he, she or they

shall have paid such assessment, and shall afterwards refuse or neglect to pay the same when due and demanded by the person or persons authorized to collect and receive the same; that then, and in every such case, it shall and may be lawful to raise the amount of such assessment by distress and sale of the goods and chattels of the person or persons so refusing or neglecting to pay, in the same manner as assessments are hereinbefore directed to be recovered.

LXVIII. And for preventing obstructions in the highways and bridges within said cities and parishes, and encroachments thereon:—Be it enacted, &c., that the surveyors and overseers of the highways shall at all such times and seasons as they shall judge proper, view all the highways and bridges within the city and parish for which they shall be surveyors or overseers, and in case they shall observe any nuisances, encroachments, obstructions or annoyances made or committed in, upon, or to the prejudice of them or any of them, contrary to the directions of this act, they shall from time to time, as soon as conveniently may be, give or cause to be given to any person or persons doing or committing the same, personal notice, or notice in writing to be left at his, her, or their usual place or places of abode, specifying the particulars wherein such nuisances, encroachments, obstructions or annoyances consist; and if such nuisances, encroachments, obstructions or annoyances shall not be removed within a reasonable time after such notice at the same respectively given as aforesaid, then the said surveyors or overseers shall be, and they are hereby fully authorized and empowered, forthwith to remove such nuisances, encroachments, obstructions or annoyances to the best of their skill and judgment, according to the true intent and meaning of this act; and the person or persons so neglecting to remove the same after such notice given, shall forfeit and pay a sum not exceeding twenty shillings currency; and the said surveyors or overseers shall be reimbursed what charges and expences they shall be at in removing such nuisances, encroachments, obstructions, or annoyances, by the person or persons who ought to have done the same, over and above the said forfeiture; and in case such person or persons shall upon demand, refuse or neglect to pay to the said surveyor or overseer his charges and expences occasioned thereby respectively, and also the said forfeiture, then the said surveyor or overseer shall apply to any justice of the peace, and upon making oath before him of notice being given to the defaulter in manner aforesaid, and of the said works being done by such surveyor or overseer, and of the expences attending the same, the said surveyor or overseer shall be repaid by such person or persons all such his said charges as shall be allowed to be reasonable by the said justice, or in default of payment thereof on demand, the same shall be levied in such manner as the penalties and forfeitures inflicted by this act are directed to be levied: Provided always, that nothing herein above mentioned, shall extend or be construed to extend, to prohibit any person or persons from laying on any public highway, causeway or pavement, materials for the purpose of building or repairing any house, building or wall adjoining to such highway, causeway or pavement, so as that a sufficient way or passage for the public shall be left during the time of such building or repairing, and that such materials be immediately removed after the same shall be finished.

Surveyors, &c. to view the highways and bridges and remove nuisances, &c.
But see Tables.

Nuisances, encroachments, &c. may be removed by the surveyors, who may recover their expences.

Not to prevent the laying on highways materials for building, &c.

LXXII. And whereas several of the streets, lanes and other places comprehended within the cities aforesaid, are obstructed and made dangerous to foot passengers, by steps brought out from several houses into the streets,

Steps projecting in the streets, outside stairs, &c. to

be removed.

See Tables.

If projecting
20 inches or
more.

Cellar doors.

No house to
be built with
any such pro-
jection.

Penalty, &c.

Nothing here-
in contained
to extend to
Dorchester
bridge.

Persons of-
fending a-
gainst this act
in cases in
which no pe-
nalty is herein
before impos-
ed, shall forfeit
a sum not ex-
ceeding 10s.

Penalties, &c.
to be levied by
distress and
sale.

squares and lanes by outside stairs and other projections erected, and by steps and doors going down into cellars, vaults and other places :—Be it therefore further enacted, &c., that on or before the first day of January, which will be in the year one thousand eight hundred, all such steps brought out into footways, all such outside stairs and all other projections erected, all such steps and doors going down out of the footways into any cellars, vaults or other places, and all and every other matter or thing which extends or extend more than twenty inches french measure, into any street, square or lane of the cities aforesaid, bounded as hereinbefore mentioned, shall be removed ; and all such cellar or vault doors, although extending only twenty inches like measure or less, shall be laid even with the footways ; and it shall and may be lawful for the said justices or any three of them, and they are hereby required, from and after the said first day of January one thousand eight hundred, to cause every encroachment and obstruction whatsoever as aforesaid, to be removed by the surveyors and overseers ; and also to cause every such cellar or vault door, although extending only twenty inches like measure or less, to be by them laid even with the footways ; and from and after the passing of this act, no house or building shall be erected within the cities aforesaid, with any steps projecting into the footways, or any outside stairs or other projections, or any steps or doors going down out of the footways, into any cellar, vault or other place, or any other matter or thing extending in any degree into any street, square or lane of the cities aforesaid ; and from and after the passing of this act, no encroachment or obstruction whatsoever, shall be made or erected on any street, square or lane adjoining to any house or building already built in the said cities, excepting steps to extend not more than twenty inches, like measure, therefrom, under the penalty of every person or persons so offending, forfeiting and paying for every such offence, two pounds currency, besides five shillings currency, for every day that any encroachment or obstruction whatsoever shall remain, after any such person or persons shall have had notice to him, her or them given by a surveyor, to remove the same.

LXXIII. And be it further enacted, &c., that nothing herein contained, shall extend or be construed to extend to the bridge over the river St. Charles, in the parish of Quebec, commonly called Dorchester bridge, nor in any way affect any private bridge or private road in either of the cities and parishes aforesaid ; but that the same shall be kept up at the expence of the person or persons who respectively own the same, in the same manner as if this act had not been made.

LXXIV. And be it further enacted, &c., that every person or persons who shall offend against this act, in any matter or thing, for the breach of which a penalty is not hereinbefore especially imposed, shall forfeit and pay for every such offence a sum not exceeding ten shillings, nor less than five shillings, currency ; and that all penalties and forfeitures by this act imposed for any offence against the same, and all expences laid out, and all costs and charges to be allowed under the authority thereof, (where not hereby otherwise particularly directed) shall be levied by distress and sale of the goods and chattels of the offender or person liable or ordered to pay the same, respectively, by warrant under the hand and seal of any justice of the court of King's bench or provincial judge in circuit, or of some justice of the peace for the district or limit where such offence, neglect or default or expence laid out shall happen, or such order for payment of such expences laid

out or costs or charges shall be made, rendering the overplus of such distress (if any there be) to the party or parties, after deducting the charges of making the same; which warrant such justice of the court of King's bench, or provincial judge in circuit, or justice of the peace, is hereby empowered and required to grant, after complaint or information to him made or given, upon conviction of the offender, by confession, or upon the oath of one or more credible witness or witnesses, (other than the informer); and the penalties and forfeitures when so levied, as well as all other penalties and forfeitures by this act imposed, when levied, shall be paid, the one-half to the informer, and the other half to the road treasurer, if such offence, neglect or default shall have happened within the cities and parishes of Quebec or Montreal, to be therein respectively applied to the same purposes as other monies arising in the said cities and parishes by virtue of this act,—or to the grand-voyer of the district or his deputy, if the same shall have happened in a parish or place, other than the said cities and parishes, to be by him applied towards the repair of the highways and bridges of the district, where the offence, neglect or default shall have happened; and of the application and expenditure of all which monies so paid to any grand-voyer or his deputy up to the first day of January annually, such grand-voyer shall render an account to the justices at their general quarter sessions in the month of April following, to be by them allowed if found just and true; but if any charges therein made shall be objected to by them, and the same shall not be supported by sufficient evidence or proof, they shall disallow such charges, and direct the balance of monies they shall find remaining in the hands of the grand-voyer or his deputy, to be applied to the purposes intended by this act; but in case any grand-voyer or his deputy, or any surveyor or overseer shall be the informer, (except in the case of omission or concealment of horses as hereinbefore mentioned) then the whole shall be paid and employed towards the repair of such highways and bridges; and all monies arising by virtue of this act, are hereby granted to His Majesty for the purposes hereinbefore mentioned; and the due application thereof accordingly shall be accounted for to His Majesty through the commissioners of His Majesty's treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall direct.

One half of the penalties, &c. to be paid to the informer and the other to the road treasurer.

Or to the grand voyer.

Grand-voyer to render an account to the justices.

But see Tables.

Appropriation if the grand-voyer is the informer,

Monies arising by this act granted to His Majesty, &c.

LXXV. Provided always, and it is hereby enacted, that no suit or action shall be commenced or brought against the person offending against this act, unless the same shall be commenced or brought within three months next after the offence committed, and not afterwards; and provided also, that any grand-voyer or his deputy, or any surveyor or overseer, shall be deemed in all cases a competent witness in all matters relative to the execution of this act, notwithstanding he may be the prosecutor or informer for any offence, neglect or default against the same.

No suit to be commenced unless within three months after the offence. Grand-voyer to be a competent witness.

LXXVI. And be it further enacted, &c., that if any action or suit shall be commenced against any person or persons for any thing done or acted in pursuance of this act,—then and in every such case, such action or suit shall be commenced or prosecuted within three calendar months after the fact committed, and not afterwards; and the same and every such action or suit shall be brought within the district where the fact was committed, and not elsewhere; and the defendant or defendants in every such action or suit, shall and may plead the general issue, and give this act and the special matter in evidence, at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this present act; and

How and when actions, brought for things done under this act, are to be commenced.

General issue.

if the same shall appear to have been so done, or if any such action or suit shall be brought after the time limited for bringing the same, then judgment shall be given for the defendant or defendants; or if the plaintiff or plaintiffs shall become nonsuit, or discontinue his, her or their action, after the defendant or defendants shall have appeared, or if judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall and may recover treble costs, and have the like remedy for recovery thereof, as any defendant or defendants hath or have in other cases by law.

Treble costs.

Attorney general to make an abstract relative to the cities and districts, respectively.

Abstract to be printed and distributed.

Copies of such abstracts to be delivered to the surveyors and overseers.

Surveyors to read the same publicly at the church door of every parish.
See Tables.

Deputies of grand voyers, surveyors and overseers exempted from certain public services.

LXXVII. And in order to have the contents of the regulations herein contained more generally communicated and known:—Be it further enacted, &c., that His Majesty's attorney general of this Province, shall make out an abstract, in the English and French languages, of the most material parts of this act, relative to the cities and parishes of Quebec and Montreal, and another abstract in the English and French languages of the most material parts of this act relative to the districts of Quebec, Montreal and Three-Rivers; and each of such abstracts shall be printed; and when so printed a sufficient number of copies of the same respectively applicable, shall be distributed by the clerk of the legislative council to the clerks of the peace in Quebec and Montreal and to the grand-voyers of the districts of Quebec, Montreal and Three-Rivers, for the use of the surveyors and overseers within their respective limits; and the said clerks of the peace, and the said grand-voyer shall respectively deliver or cause to be delivered a copy of the abstract by them respectively received, to each and every surveyor and overseer at the time when he is appointed; and each and every surveyor is hereby ordered to read or cause to be read such abstract publicly, at the door of the church, chapel or place of divine worship within the city, parish, seigniory or township; or where there shall be no place of divine worship in any parish, seigniory or township, then at the door of the most public place in such parish, seigniory or township, on the next Sunday after they shall respectively receive the same; and every surveyor shall also read or cause to be read publicly such abstract at the door or place aforesaid, on the first Sunday in the month of June in every year; and when it shall be necessary for the purposes aforesaid to reprint such abstracts, the road treasurers for the aforesaid cities and parishes respectively, and the grand voyers for their respective districts, shall cause a sufficient number of copies of such abstracts respectively applicable to their limits, to be from time to time reprinted; and they are hereby authorized to retain the expence of reprinting the same, out of any moneys in their hands arising by virtue of this act.

LXXVIII. And be it further enacted, &c., that the deputy of each grand-voyer, the surveyors and the overseers of the highways for the time being, shall be and hereby are exempted from transporting effects belonging to government, and from being called out to serve in the militia, excepting in the case of invasion of the Province, or of insurrection in the county where they are respectively serving the said offices.

39 Geo. III.
Cap. 5.

An Act to amend an Act passed in the thirty-sixth year of His present Majesty's reign, intituled, *An Act for making, repairing and altering the Highways and Bridges within this Province, and for other purposes.*

Preamble.

WHEREAS an act was passed by the legislature of this Province, in the thirty-sixth year of His present Majesty's reign, intituled, *An*

act for making, repairing and altering the highways and bridges within this Province, and for other purposes; and whereas the said act established regulations for the towns and parishes of Quebec and of Montreal, in the execution of which divers inconveniences have been found, occasioned by the too great extent of the said parishes; and whereas it is expedient that other provisions be made in respect thereof:—Be it therefore enacted, &c., that the said cities and towns of Quebec and Montreal shall respectively form a particular district, to be hereafter called the town district, and shall be circumscribed within the limits established for each of the said cities and towns by a proclamation of His Excellency Alured Clarke, esquire, then Lieutenant-Governor of this Province, bearing date the seventh day of May, in the year one thousand seven hundred and ninety-two, and in the thirty-second year of His present Majesty's reign.

Act 36 Geo. 3.
cap 9, recited.

The cities of
Quebec and
Montreal
formed into
two districts.

II. Provided always, and it is hereby enacted, that the said cities and towns of Quebec and Montreal, shall continue respectively to be subject to the rules and regulations established by the act of the thirty-sixth of His present Majesty, inasmuch as the said rules and regulations shall not have been changed or altered by this act.

To be subject
to the rules,
&c. estab-
lished by 36
Geo. 3. cap. 9.

III. And be it further enacted, &c., that such parts of the said parishes of Quebec and of Montreal respectively, as shall be found without the limits fixed for the districts of the towns of Quebec and of Montreal, by the proclamation aforesaid of the seventh of the month of May, one thousand seven hundred and ninety-two, shall become and form a distinct and particular district of the said towns of Quebec and Montreal, to be called the country district.

Parts of the
parishes of
Quebec and of
Montreal, not
within the
cities to form
distinct dis-
tricts.

IV. Provided always, and it is hereby enacted, that the parts of the said parishes of Quebec and of Montreal, so separated from the districts of the said towns of Quebec and of Montreal, shall be and continue under the direction and inspection of His Majesty's justices of the peace for the said towns of Quebec and of Montreal, respectively, and shall be subject to such rules and regulations as are hereafter prescribed in this act.

And to be
under the di-
rection of jus-
tices of the
peace.
See Tables.

V. And whereas the repairs and maintenance of the highways in the country districts of Quebec and Montreal, will be less burthensome and more conformable to the tenure of the land within the same, if reinstated under the regulations established for the country parishes in general:—Be it further, and it is enacted, &c., that the proprietors and holders of land or lots within the country districts of Quebec and Montreal, shall open, make, repair and maintain, as well in winter as in summer, their front roads and others in the same manner and under the same fines and penalties, established by the act hereinbefore mentioned, passed in the thirty-sixth year of His present Majesty's reign, for the country parishes: Provided always, that the repairs, maintenance and works to be performed on the said roads, shall be made under the direction and inspection of such persons, as may be appointed in the manner hereinafter provided: And provided also, that if the said proprietors or occupiers of lands or lots as aforesaid, do not repair and maintain in good order their said front roads, in a sufficient manner, and according to the directions of the persons so appointed, it shall be lawful for the said persons so appointed, over and above the fines and penalties provided by the aforementioned act, of the thirty-sixth year of His present Majesty's reign, to cause the repairs to be made at any time after twenty-four hours notice shall have been left at the dwelling-house of the defaulters, on

The proprie-
tors of lands in
the country
districts to
open &c. their
front roads and
others.

Proviso.
But see Tables.

Penalty on
persons who
do not main-
tain their front
roads.

the roads of the said proprietors or occupiers of lands or lots as aforesaid, at the expence and cost of the said proprietors or occupiers, in such manner as the said persons so appointed shall judge proper.

Surveyors to take the sums of money necessary for the repairs of the roads of such defaulters.
But see Tables.

Sums advanced to be recoverable with costs.

Justices of the peace to divide the country districts.

But see Tables.

And to cause an election of an overseer for each division, &c.

But see Tables.

Rules and forms established by act 36. Geo. 3. cap. 9, to be followed.

Overseers to obey the surveyors.

Proprietors, &c. in the cities of Quebec and Montreal to repair the roads from 1st November, to 1st May.

VI. And be it further enacted, &c., that in order to provide for the advances to be made for the repairs of the roads of the said proprietors or occupiers of lands or lots, who shall be found in default in respect of the repairs and maintenance of the roads as aforesaid, by the persons so to be appointed, it shall be lawful for His Majesty's justices of the peace of the towns of Quebec and Montreal, to authorize the surveyors of the said towns to take the said sums from the monies proceeding from the funds established by this act; which advances, with the costs of suit, shall be recoverable from the persons so offending, by an action of debt in any of His Majesty's courts within this Province; and the said action may be instituted by the surveyor or by the treasurer appointed for the said cities of Quebec and Montreal, respectively.

VII. And be it further enacted, &c., that His Majesty's justices of the peace, appointed in the cities of Quebec and Montreal, respectively, shall have power and are hereby authorized, in their general quarter sessions of the peace, or in any special session which they may hold for that purpose, to divide the said country districts separated from the said towns of Quebec and of Montreal, into any number of divisions or quarters that they may judge expedient and necessary, and shall proceed to fix such number of divisions or quarters, within one month after the passing of this act.

VIII. And be it further enacted, &c., that the said justices of the peace in their general quarter sessions of the peace, or in any of the special sessions to be by them held as aforesaid, in the said cities of Quebec and of Montreal, shall have power and are hereby authorized to cause an election to be made of an overseer for each division or quarter established by them in the said country districts, separated as aforesaid from the districts of the said towns of Quebec and of Montreal: Provided always, that the said justices of the peace shall follow in respect to the said election, the forms and rules established in the before mentioned act, passed in the thirty-sixth year of His present Majesty's reign, relative to the elections of the overseers in the country parishes: And provided also, that the overseers so elected, shall be each of them respectively bound to accept and perform the duties of the office of overseer, under the rules established and penalties imposed by the said act, on the overseers of the country parishes.

X. And be it further enacted, &c., that the said overseers shall act under the direction of the surveyors who shall or may have been nominated and appointed under the authority of this act.

XI. And whereas the maintenance and repairs of the winter roads, within the cities and towns of Quebec and Montreal, are regulated and ordered to be made by the before mentioned act of the thirty-sixth year of His present Majesty's reign, by persons employed to repair and keep up the said roads in general, who are paid for that purpose: And whereas it has been found by experience, that such repairs and keeping in order cannot be properly effected, and becomes too burthensome to the public:—Be it therefore, and it is enacted, &c., that from the first day of November until the first day of May, of each year, all and every proprietor or occupier of a house, tenement or lot of ground, within the said cities and towns of Quebec and of Montreal, shall be bound to repair and maintain the roads in front of their house, tene-

ment or lot of ground respectively, conformably to the regulations of the justices of the peace of the said cities of Quebec and of Montreal, and under the inspection and direction of the persons appointed for that purpose.

XII. And whereas there are squares and public roads within the said cities and towns of Quebec and of Montreal, which no particular individuals are bound to repair or maintain, in the winter season; and whereas that, without the walls of the said towns of Quebec and of Montreal, it is expedient, that other provisions be made for repairing and keeping in order the winter roads, upon the beach, contiguous to the said towns of Quebec and of Montreal:—Be it therefore and it is enacted, &c., that it shall be lawful for the justices of the peace of the towns of Quebec and of Montreal, and they are hereby authorized, to cause to be made, repaired and maintained, the winter roads that may be found fronting public squares; and also to cause to be made, repaired and maintained, to the distance of three acres towards and upon the rivers, the roads upon the beach, contiguous to the said towns of Quebec and of Montreal; for which repairs and the maintenance thereof, the said justices of the peace of the said cities of Quebec and of Montreal, are authorized to take from the funds which shall be hereafter provided, a sum not exceeding twenty pounds, current money of this Province.

Justices of the peace in Quebec and Montreal, may make, repair, &c. the winter roads fronting public squares, and on the rivers and beaches contiguous to the towns.

But see Tables.

XIII. And whereas by the separation hereinbefore made, of the country districts from the cities and parishes of Quebec and of Montreal, it becomes necessary that other provisions be made for public bridges, for the roads known by the name of by-roads, and for the winter roads upon the rivers:—Be it therefore enacted, &c., and it is enacted, that all public bridges, all roads known under the name of by-roads, terminating at or connected with the country districts of the said cities and parishes of Quebec and of Montreal, as far as the said bridges and by-roads may extend within the said country districts of the said cities and parishes of Quebec and of Montreal, and also all roads upon the rivers, terminating at the said cities of Quebec and of Montreal, shall, as well in winter as in summer, be made, repaired and maintained by the same persons, in the same manner and under the same penalties, as are provided by that part of the act hereinbefore mentioned, of the thirty-sixth year of His present Majesty's reign, relative to the country parishes.

By whom public bridges and by-roads connected with the country districts, are to be made, repaired, &c.

XIV. Provided always, and it is further enacted, that such persons as are by this act obliged to maintain and repair the said highways, and bridges over rivers, shall be under the orders and directions of the justices of the peace, surveyors and overseers that may be appointed in the said cities and parishes of Quebec and of Montreal, and shall be liable to the same obligations, fines and forfeitures, provided and imposed by this act on the proprietors or occupiers of lands or lots in the said country districts of the said cities and parishes of Quebec and of Montreal.

Persons obliged to maintain, &c. the highways and bridges, to be under the orders of the justices, &c.

XV. And be it further enacted, &c., that all and every regulation, provision, matter or thing contained in this act, relative to or concerning the proprietors or occupiers of lands or lots in the said country districts of the said cities and parishes of Quebec and of Montreal, shall commence, and it is hereby ordained and enacted, that they shall have full force and effect, from and after the day of the passing of the present act.

When the regulations in this act concerning the proprietors, &c. of lands, &c. are to come into force.

XVI. Provided also, and it is further enacted, &c., that all and every proprietor or occupier of lands or lots in the said country districts of the

Proprietors, &c. of lands

the roads of the said proprietors or occupiers of lands or lots as aforesaid, at the expence and cost of the said proprietors or occupiers, in such manner as the said persons so appointed shall judge proper.

Surveyors to take the sums of money necessary for the repairs of the roads of such defaulters.
But see Tables.

Sums advanced to be recoverable with costs.

Justices of the peace to divide the country districts.

But see Tables.

And to cause an election of an overseer for each division, &c.

But see Tables.

Rules and forms established by act 36. Geo. 3. cap. 9, to be followed.

Overseers to obey the surveyors.

Proprietors, &c. in the cities of Quebec and Montreal to repair the roads from 1st November, to 1st May.

VI. And be it further enacted, &c., that in order to provide for the advances to be made for the repairs of the roads of the said proprietors or occupiers of lands or lots, who shall be found in default in respect of the repairs and maintenance of the roads as aforesaid, by the persons so to be appointed, it shall be lawful for His Majesty's justices of the peace of the towns of Quebec and Montreal, to authorize the surveyors of the said towns to take the said sums from the monies proceeding from the funds established by this act; which advances, with the costs of suit, shall be recoverable from the persons so offending, by an action of debt in any of His Majesty's courts within this Province; and the said action may be instituted by the surveyor or by the treasurer appointed for the said cities of Quebec and Montreal, respectively.

VII. And be it further enacted, &c., that His Majesty's justices of the peace, appointed in the cities of Quebec and Montreal, respectively, shall have power and are hereby authorized, in their general quarter sessions of the peace, or in any special session which they may hold for that purpose, to divide the said country districts separated from the said towns of Quebec and of Montreal, into any number of divisions or quarters that they may judge expedient and necessary, and shall proceed to fix such number of divisions or quarters, within one month after the passing of this act.

VIII. And be it further enacted, &c., that the said justices of the peace in their general quarter sessions of the peace, or in any of the special sessions to be by them held as aforesaid, in the said cities of Quebec and of Montreal, shall have power and are hereby authorized to cause an election to be made of an overseer for each division or quarter established by them in the said country districts, separated as aforesaid from the districts of the said towns of Quebec and of Montreal: Provided always, that the said justices of the peace shall follow in respect to the said election, the forms and rules established in the before mentioned act, passed in the thirty-sixth year of His present Majesty's reign, relative to the elections of the overseers in the country parishes: And provided also, that the overseers so elected, shall be each of them respectively bound to accept and perform the duties of the office of overseer, under the rules established and penalties imposed by the said act, on the overseers of the country parishes.

X. And be it further enacted, &c., that the said overseers shall act under the direction of the surveyors who shall or may have been nominated and appointed under the authority of this act.

XI. And whereas the maintenance and repairs of the winter roads, within the cities and towns of Quebec and Montreal, are regulated and ordered to be made by the before mentioned act of the thirty-sixth year of His present Majesty's reign, by persons employed to repair and keep up the said roads in general, who are paid for that purpose: And whereas it has been found by experience, that such repairs and keeping in order cannot be properly effected, and becomes too burthensome to the public:—Be it therefore, and it is enacted, &c., that from the first day of November until the first day of May, of each year, all and every proprietor or occupier of a house, tenement or lot of ground, within the said cities and towns of Quebec and of Montreal, shall be bound to repair and maintain the roads in front of their house, tene-

meat or lot of ground respectively, conformably to the regulations of the justices of the peace of the said cities of Quebec and of Montreal, and under the inspection and direction of the persons appointed for that purpose.

XII. And whereas there are squares and public roads within the said cities and towns of Quebec and of Montreal, which no particular individuals are bound to repair or maintain, in the winter season; and whereas that, without the walls of the said towns of Quebec and of Montreal, it is expedient, that other provisions be made for repairing and keeping in order the winter roads, upon the beach, contiguous to the said towns of Quebec and of Montreal:—Be it therefore and it is enacted, &c., that it shall be lawful for the justices of the peace of the towns of Quebec and of Montreal, and they are hereby authorized, to cause to be made, repaired and maintained, the winter roads that may be found fronting public squares; and also to cause to be made, repaired and maintained, to the distance of three acres towards and upon the rivers, the roads upon the beach, contiguous to the said towns of Quebec and of Montreal; for which repairs and the maintenance thereof, the said justices of the peace of the said cities of Quebec and of Montreal, are authorized to take from the funds which shall be hereafter provided, a sum not exceeding twenty pounds, current money of this Province.

Justices of the peace in Quebec and Montreal, may make, repair, &c. the winter roads fronting public squares, and on the rivers and beaches contiguous to the towns.

But see Tables.

XIII. And whereas by the separation hereinbefore made, of the country districts from the cities and parishes of Quebec and of Montreal, it becomes necessary that other provisions be made for public bridges, for the roads known by the name of by-roads, and for the winter roads upon the rivers:—Be it therefore enacted, &c., and it is enacted, that all public bridges, all roads known under the name of by-roads, terminating at or connected with the country districts of the said cities and parishes of Quebec and of Montreal, as far as the said bridges and by-roads may extend within the said country districts of the said cities and parishes of Quebec and of Montreal, and also all roads upon the rivers, terminating at the said cities of Quebec and of Montreal, shall, as well in winter as in summer, be made, repaired and maintained by the same persons, in the same manner and under the same penalties, as are provided by that part of the act hereinbefore mentioned, of the thirty-sixth year of His present Majesty's reign, relative to the country parishes.

By whom public bridges and by-roads connected with the country districts, are to be made, repaired, &c.

XIV. Provided always, and it is further enacted, that such persons as are by this act obliged to maintain and repair the said highways, and bridges over rivers, shall be under the orders and directions of the justices of the peace, surveyors and overseers that may be appointed in the said cities and parishes of Quebec and of Montreal, and shall be liable to the same obligations, fines and forfeitures, provided and imposed by this act on the proprietors or occupiers of lands or lots in the said country districts of the said cities and parishes of Quebec and of Montreal.

Persons obliged to maintain, &c. the highways and bridges, to be under the orders of the justices, &c.

XV. And be it further enacted, &c., that all and every regulation, provision, matter or thing contained in this act, relative to or concerning the proprietors or occupiers of lands or lots in the said country districts of the said cities and parishes of Quebec and of Montreal, shall commence, and it is hereby ordained and enacted, that they shall have full force and effect, from and after the day of the passing of the present act.

When the regulations in this act concerning the proprietors, &c. of lands, are to come into force.

XVI. Provided also, and it is further enacted, &c., that all and every proprietor or occupier of lands or lots in the said country districts of the

Proprietors, &c. of lands

&c. in the country districts discharged from personal labour.

said cities and parishes of Quebec and of Montreal, are and shall be, from the day of the passing of this act, discharged from all personal labour or composition for the same, to which they were liable as forming part of the said cities and parishes of Quebec and of Montreal, by virtue of the act of the thirty-sixth year of the reign of His present Majesty, as aforesaid.

Justices of the peace to pay a sum not exceeding £100 yearly, for repairing the roads upon the hills and bridges in the country districts.

See Tables.

XVIII. And whereas it would be highly conducive to the interest and convenience of the inhabitants of the cities and parishes of Quebec and of Montreal, that the roads upon the hills and bridges kept up by joint labour, in those parts of the said cities and parishes which are disjoined therefrom by this act, should be amended and kept in good repair: And whereas also, it would be too burthensome for the proprietors or occupiers of the lands in those parts of the said cities and parishes disjoined as aforesaid, to amend and keep in good repair, wholly at their own expense, the roads upon the hills and bridges aforesaid; and that it will therefore be just and reasonable that some aid be given towards amending and repairing the same:—Be it therefore enacted, &c., that it shall and may be lawful for the justices of the peace, at any general quarter sessions of the peace to be holden at the aforesaid cities, respectively, to order to be paid from the said monies which may be received by the road treasurers of the aforesaid cities, respectively, under the authority of this act, any sum not exceeding, annually, one hundred pounds current money of this Province, to be applied under the directions of the said justices, and in the manner herein provided, towards the amending and repairing the roads upon the hills and bridges kept up by joint labour, in the country districts, respectively, as aforesaid, and in addition to the work to be done, under this act, by the inhabitants thereof.

Amount of assessment authorized by 36 Geo 3. cap. 9. increased.

But see Tables.

The annual value to be estimated by assessors. Assessment when to be made.

XIX. And whereas by the before-mentioned act, passed in the thirty-sixth year of His present Majesty's reign, it is provided that an assessment shall be made, once in every year, upon all and every the occupier or occupiers of lands, lots, houses and buildings, in proportion to the annual value thereof, within the cities of Quebec and of Montreal, to be applied towards the making, amending and keeping in repair the streets, causeways, pavements, bridges, drains, water-courses, sewers, market-places, squares and lanes, within the limits of the said cities, wherein such assessment shall be made, respectively, and that the assessment so to be made, shall not exceed the rate of four-pence in the pound of the yearly value of the lands, lots, houses and buildings so assessed: And whereas experience has shewn that the rate of the aforesaid assessment is insufficient for the said purposes, and that it will be expedient to augment the same:—Be it therefore enacted, &c., that the assessment authorized by the before-mentioned act, passed in the thirty-sixth year of His present Majesty's reign, to be made upon all and every the occupier or occupiers of lands, lots, houses and buildings, within the cities of Quebec and Montreal, respectively, may be increased to, but shall not exceed the rate of six-pence in the pound of the yearly value of the lands, lots, houses and buildings to be assessed: And the annual value of the said lands, lots, houses and buildings shall be estimated by the assessors, who shall be possessed of real property in the said cities of Quebec and of Montreal, respectively, once in every year: And the said assessment shall be made from the tenth day of May to the tenth day of June in each year.

All grounds, &c. within the town districts to be assessed.

XX. And be it further enacted, &c., that all grounds used for pasture, hay-land or for raising grain, without the fortification walls of the said cities, respectively, but within the town districts of the said cities, as described by

the present act, shall be assessed for the purposes herein mentioned; excepting only the grounds occupied by any of the religious communities of women.

XXI. And be it further enacted, &c., that from and after the first day of January, which will be in the year of Our Lord one thousand eight hundred, instead of the personal labour required by the act before mentioned, the proportion of labour to be performed by every male inhabitant of the cities of Quebec and Montreal, respectively, living within the limits described by the proclamation hereinbefore mentioned, of the age of twenty-one and under the age of sixty years, not being *bond fide* an apprentice or regular student in seminaries, colleges or public schools, and who shall not be liable to contribute by assessment to the funds hereinbefore mentioned, shall be regulated by the amount of the assessment or rate directed to be levied as aforesaid, that is to say;—that a day's labour shall be required and performed of and by every person so liable as aforesaid, for every penny whereof the amount of the said rate shall consist; that when the rate shall be limited to three pence, three days labour shall be performed, and when it shall amount to six-pence, six days labour shall be performed, in manner as in the said act of the thirty-sixth year of His present Majesty is set forth: Provided always, that instead of the composition of fifteen pence for every day's labour, as by the said act is specified, it shall and may be lawful, for every person so disposed, to compound for the same, by the payment at any time in the month of June, in every year, of the sum of five pence for every day's labour so to be performed as aforesaid: Provided always, that no person who shall have contributed and paid his due proportion to the said assessment hereinbefore mentioned, shall be called upon to perform or pay, or shall be liable to perform the personal labour or pay the composition money mentioned in the said act of the thirty-sixth year of His present Majesty, or any other labour or composition money, in respect of the said roads.

The proportion of labour to be performed by every male inhabitant of Quebec and Montreal, not contributing by assessment, to be regulated by the amount of the assessment.

But see Tables.

The rates.

Persons may compound at any time in June.

Persons who have contributed to the assessment, not to be liable to personal labour.

XXII. Provided also, and it is hereby further enacted, &c., that it shall be lawful for the justices in any general or special sessions of the peace, held in the said cities respectively, to grant abatement or exemption in favour of persons liable to the said payments or labour, not being liable to contribute by assessment of property, either under this act or under the act of the thirty-sixth year before mentioned, on satisfactory proof being produced, by certificate from the established clergymen of the said cities, respectively, or from the captain of the company of militia to which such person shall belong, that such person or persons are burthened with families of young children, or that they have within the last twelve months laboured under sickness or infirmities, whereby they have been prevented from obtaining a livelihood: Provided further, that the personal contribution or labour hereinbefore mentioned, shall not be required of or from any officer, non-commissioned officer or soldier of any regiment or corps in garrison in the cities of Quebec or Montreal, for the time being, unless that any such officer be upon the staff of the army serving in the Province or upon the staff of the garrison.

Abatement or exemption from statute labour, allowed in certain cases.

Personal contribution or labour not to be required of officers, &c.

XXIII. And whereas it is necessary to provide further and more ample means, for making, amending and keeping in repair the streets, causeways, pavements, bridges, drains, water-courses, sewers, market-places, squares and lanes, within the limits of the aforesaid cities of Quebec and Montreal; And whereas it is necessary to increase the funds for defraying the other

Persons keeping horses in Quebec and Montreal to pay 7s. 6d. yearly.

The inspectors to receive a certain sum for their plans.

tice, lodge their observations or oppositions, if any they have, against it, that justice may be done in the premises ; in failure of which the said plan shall be homologated and followed up in future, agreeable to its form and tenor : And for drawing the said plans and making copies thereof, there shall be paid to each of the said inspectors of the said cities of Quebec and Montreal, respectively, a sum not exceeding two hundred pounds current money of this Province, the same to be taken out of the funds to be levied by virtue of this act, and of the before recited act of the thirty-sixth year of His Majesty's reign.

When such plan is homologated every portion, &c. of ground to be subject to the distribution set forth in the plan. Persons contravening the same, may be stopped and fined.

XXVIII. And be it further enacted, that from and after the day such plan shall be homologated, every portion, parcel or lot of ground contained within the respective tracts of land, so planned and laid out as aforesaid, shall become subject to such distribution and division as in the said plan shall be set forth, into whose property or possession soever the same may come, whether by descent, devise, deed or any other mode of alienation ; and if any person or persons shall in future build any dwelling house or other building encroaching upon the said squares or streets, or which shall intercept, stop up or prevent the continuation of the same, he or they, upon conviction thereof in any of the courts of general or special sessions of the peace for the districts of Quebec and Montreal, respectively, shall be bound to discontinue the said buildings or houses, and to demolish and destroy the works which he or they shall have so begun or made, and to restore the premises to the same or like state in which they were before the said works were begun or made, within the space or term of fifteen days after judgment shall have been pronounced, under a penalty of ten shillings for each day he or they shall demur or neglect to execute or comply with the said judgment : Provided always, that when such proprietor or proprietors shall or may be held and obliged to deliver up or abandon the squares so described or reserved for public uses, he or they shall be indemnified and paid for the same in the manner provided by law.

See Tables.

Proviso as to indemnification.

Persons not compellable to remove projections until notified by the surveyor.

XXIX. And whereas by the before mentioned act passed in the thirty-sixth year of His present Majesty's reign, it is enacted, that on the first day of January, which will be in the year of Our Lord, one thousand eight hundred, all stéps brought out into the foot-ways, all outside stairs and other projections erected, all steps and doors going down out of the footways into any cellars, vaults or other places, and all and every other matter or thing which extends more than twenty inches, French measure, into any street, square or lane of the cities aforesaid, shall be removed :—And whereas it will be very prejudicial to the parties concerned, to make such removals as aforesaid, before actual preparation shall be made for the paving or repairing of the street or place wherein such houses may be situate :—Be it therefore further enacted, &c., that no person shall be compellable to proceed to such removals as aforesaid, until they shall be duly notified by the surveyor so to do, by virtue of an order issued under the authority of two or more justices of the peace for the said cities ; and that in all cases of disobedience or non-compliance with such order, it shall and may be lawful for the said surveyor, after the expiration of one calendar month from the time of serving such notice, to apply for a second order, from any two or more justices of the peace as aforesaid, which order the said justices are hereby empowered and directed to grant, authorizing the said surveyor to cause all such obstructions, projections and encroachments

See Tables.

Mode of enforcing compliance or removing obstruction at the cost of the parties.

in the said cities of Quebec and Montreal, shall receive for their respective services, annually, and in lieu of all charges and emoluments, a sum not exceeding one hundred pounds current money, which sum shall be paid out of the monies levied by virtue of this act, in the city and parish where he may be appointed surveyor: And it shall be the duty of such surveyor, before he proceeds to the levelling, elevating or paving of any street, lane, square or market-place, or to the opening of any canal, water-course or aqueduct, or to the erecting of any bridge or causeway, in the said cities and parishes of Quebec and Montreal, to draw a plan of the said street, lane, market-place, square, canal, water-course, aqueduct, bridge or causeway, the which shall point out the level and declivity of the same; and the said plan shall be accompanied by a *procès verbal* referring thereto, of the most convenient and expedient method for the execution of the work proposed; which plan and *procès verbal* shall be deposited in the office of the clerk of the peace in each of the districts of Quebec and Montreal, respectively; and notice shall be given, in such manner as the justices of the peace shall direct, to the proprietors of ground or houses or other buildings adjoining to such street, lane, market-place, square, canal, water-course, aqueduct, bridge or causeway, and to every other person concerned therein, that the said plan and *procès verbal* are so deposited for their inspection, *gratis*, in order that they may, within any time not exceeding one month from such notice, lodge such observations or oppositions as they may have to the contrary, that justice may be done in the premises; in failure of which, the said plan and *procès verbal* shall be homologated and put in execution agreeably to their form and tenor: And the said surveyor shall, within two years from and after the passing of this act, or sooner if possible, draw an exact and regular plan of the said cities of Quebec and Montreal, pointing out, agreeable to the rules of art, the streets, lanes, squares, market-places, water-courses, aqueducts, canals, bridges and causeways, in the said cities of Quebec and Montreal; one copy of which shall be deposited in the offices of the clerks of the peace in the districts of Quebec and Montreal, respectively, to be inspected, *gratis*, and for the direction of every person concerned or interested therein.

The duty of such surveyors.

XXVII. And whereas there now remains within the limits of the said cities of Quebec and Montreal, a great extent of ground, partly laid out in pasture, woodland, meadows and arable land, which are daily laid out, and will in time to come be divided in ground lots, for the purpose of erecting thereon houses or other buildings, for planting of orchards or to be cultivated as gardens, that are commonly closed in with good and solid fences; And whereas it is necessary and of utility to the public, that the said divisions should be parcelled out agreeably to a regular plan, and that commodious streets should be opened and convenient places reserved for squares in time to come:—Be it therefore enacted, &c., that it shall be the duty of the said surveyor, to add to the aforesaid plans of the said cities of Quebec and Montreal, respectively, a plan of the said tracts of land, laying down rules for the division thereof in time to come, with the streets and squares that ought to be reserved; and when such plan shall have been drawn up, it shall be deposited in the offices of the clerks of the peace for the said districts, respectively, and notice shall be given in such manner as the justices of the peace shall direct, that such a plan has been drawn up and so deposited for the inspection, *gratis*, of whomsoever may be concerned or interested therein, in order that they may, within any time not exceeding six months from such no-

The surveyors to add to the plan of the cities of Quebec and Montreal, a plan of the tracts of land, &c. to be reserved for streets and squares.

Sec Table.

The inspectors to receive a certain sum for their plans.

tice, lodge their observations or oppositions, if any they have, against it, that justice may be done in the premises ; in failure of which the said plan shall be homologated and followed up in future, agreeable to its form and tenor : And for drawing the said plans and making copies thereof, there shall be paid to each of the said inspectors of the said cities of Quebec and Montreal, respectively, a sum not exceeding two hundred pounds current money of this Province, the same to be taken out of the funds to be levied by virtue of this act, and of the before recited act of the thirty-sixth year of His Majesty's reign.

When such plan is homologated every portion, &c. of ground to be subject to the distribution set forth in the plan. Persons contravening the same, may be stopped and fined.

XXVIII. And be it further enacted, that from and after the day such plan shall be homologated, every portion, parcel or lot of ground contained within the respective tracts of land, so planned and laid out as aforesaid, shall become subject to such distribution and division as in the said plan shall be set forth, into whose property or possession soever the same may come, whether by descent, devise, deed or any other mode of alienation ; and if any person or persons shall in future build any dwelling house or other building encroaching upon the said squares or streets, or which shall intercept, stop up or prevent the continuation of the same, he or they, upon conviction thereof in any of the courts of general or special sessions of the peace for the districts of Quebec and Montreal, respectively, shall be bound to discontinue the said buildings or houses, and to demolish and destroy the works which he or they shall have so begun or made, and to restore the premises to the same or like state in which they were before the said works were begun or made, within the space or term of fifteen days after judgment shall have been pronounced, under a penalty of ten shillings for each day he or they shall demur or neglect to execute or comply with the said judgment : Provided always, that when such proprietor or proprietors shall or may be held and obliged to deliver up or abandon the squares so described or reserved for public uses, he or they shall be indemnified and paid for the same in the manner provided by law.

See Tables.

Proviso as to indemnification.

Persons not compellable to remove projections until notified by the surveyor.

XXIX. And whereas by the before mentioned act passed in the thirty-sixth year of His present Majesty's reign, it is enacted, that on the first day of January, which will be in the year of Our Lord, one thousand eight hundred, all steps brought out into the foot-ways, all outside stairs and other projections erected, all steps and doors going down out of the footways into any cellars, vaults or other places, and all and every other matter or thing which extends more than twenty inches, French measure, into any street, square or lane of the cities aforesaid, shall be removed :—And whereas it will be very prejudicial to the parties concerned, to make such removals as aforesaid, before actual preparation shall be made for the paving or repairing of the street or place wherein such houses may be situate :—Be it therefore further enacted, &c., that no person shall be compellable to proceed to such removals as aforesaid, until they shall be duly notified by the surveyor so to do, by virtue of an order issued under the authority of two or more justices of the peace for the said cities ; and that in all cases of disobedience or non-compliance with such order, it shall and may be lawful for the said surveyor, after the expiration of one calendar month from the time of serving such notice, to apply for a second order, from any two or more justices of the peace as aforesaid, which order the said justices are hereby empowered and directed to grant, authorizing the said surveyor to cause all such obstructions, projections and encroachments

See Tables.

Mode of enforcing compliance or removing obstruction at the cost of the parties.

is in the said act are specified, to be abated and removed, at the expence and charge of the said parties; which order shall be duly executed by the said surveyor.

XXX. And whereas it is expedient and necessary, that galleries extending from the second or other stories of houses, show-glasses, bow-windows, signs and pent roofs, projecting from shop doors and houses, into the streets, lanes, market-places and squares of the cities aforesaid, should be taken down and removed: And whereas the twenty inches, French measure, allowed to the proprietors of houses in the said cities, are only for the purpose of erecting steps and thresholds before the doors of their said houses, it is hereby enacted, &c., that immediately after twelve calendar months after the passing of this act, all such galleries, show-glasses, bow-windows, signs and pent roofs, projecting from shop doors in front of any house or houses, and extending into the streets, lanes, markets and squares of the said cities, shall be taken down and removed by the proprietors of the said houses, and none shall be hereafter made or erected: And upon the said proprietors neglecting to remove the same, within the time limited as aforesaid, the surveyors of the said cities of Quebec and Montreal, respectively, are hereby authorized to cause the said galleries, show-glasses, bow-windows, signs and pent roofs projecting from shop doors and houses, to be taken down and removed at the expence of the proprietors thereof, without giving them any previous notice: Provided always, that it shall be lawful for any proprietor or tenant to put up or place signs against the said houses, which shall be solidly fixed thereto by iron hold fasts or otherwise, and to take three feet and a half, French measure, upon the said streets, lanes or public squares, for their cellar trap doors, only making the covers thereof upon a level with the pavement, and of sufficient strength and solidity to support all loaded carriages that may pass thereon: Provided also that the gallery and two water-courses, communicating between the houses occupied as a brewery and distillery in Saint Charles street, without the walls of the city of Quebec, across the said street, may continue and remain for the use and service of the said brewery or distillery, while the proprietors thereof shall keep the said gallery and water-courses elevated not less than twelve feet, French measure, above the level of the said street.

All galleries, &c. to be taken down.

Proprietors neglecting to remove them, they may be taken down at the expence of the parties.

See Tables.

Proviso as to signs and cellar trap doors.

And as to the gallery and two water-courses belonging to the brewery in Saint Charles street.

XXXI. And whereas the houses situated between the widow Lee's and the one now occupied by one John Ewing, in that part of the lower town of Quebec, called the *cul-de-sac*, are not constructed on a straight line, on the side of the said street of the *cul-de-sac*; and it being expedient to fix the line of that part of the said street:—Be it therefore and it is hereby enacted, &c., that the line of the said street shall be taken from the south-west corner of the house belonging to the said widow Lee, running along to the north-east corner of the house occupied by the said John Ewing; and that the vacant space of ground, between the said houses and the said line, shall not be understood to make part of the said street.

The line of *cul-de-sac* street defined.

XXXIII. And whereas from the discontinuance of the appointment of overseers for the cities and parishes of Quebec and Montreal, as is herein provided, it becomes necessary to appoint other persons to collect assessments, to collect the duty on horses, and the contributions of persons not liable to assessment, to serve notices and to prosecute for fines, penalties and forfeitures, incurred either by this act, or by the act passed in the thirty-sixth year of His present Majesty's reign, inasmuch as the same is not altered by this act:—Be it therefore enacted by the same authority, that

Surveyors to obey the directions they may receive from the justices of the aforesaid cities. The duties of assessors. See Tables.

the surveyors to be appointed for the cities and parishes of Quebec and Montreal, shall and are hereby required to obey the directions they may from time to time receive from the justices of the aforesaid cities of Quebec and Montreal, regarding the works to be performed under the authority of this act, or of the aforementioned act passed in the thirty-sixth year of His present Majesty's reign; and the assessors annually chosen in the aforesaid cities and parishes respectively, shall, under the directions of the said justices, in the time fixed for the annual assessment, go to the dwelling house of every person liable under this act to pay a duty by reason of keeping a horse or horses, and demand to be informed of the greatest number of horses by him or her kept, for two months in the course of twelve months preceding,—or if he or she shall then be absent from his or her dwelling house, the said assessors shall leave notice that such person must, within ten days from that time, give to the clerk of the peace in the said cities, respectively, information of the number of horses by him or her kept as aforesaid; and it shall be incumbent upon every such person to give such information, within such time, accordingly; and if any such person shall refuse to answer such question and shall neglect, within such time, to give the said information, then the assessor shall, from information, estimate the number of horses by him or her kept as aforesaid, and such estimate shall be conclusive upon every such person, unless such person shall prove before one or more justices upon his or her oath, (which he or they are hereby authorized to administer) any overcharge in such estimate, in which case such overcharge shall be deducted therefrom; and the said assessors may add thereto any number omitted or concealed, that shall be discovered and proved before a justice, and then make a true statement of the number of horses by any such person kept as aforesaid; And if any person, upon official application being made to him or her, for such purpose as aforesaid, shall give either in writing or verbally, an untrue account of the number of horses possessed by him or her within the space of the last twelve months, for which he or she may be chargeable with the said duty, according to the true intent and meaning of this act, or shall wilfully conceal that he or she has been or is possessed of any one or more horses for which the said duty ought to be paid, with an intent to evade the payment of the same, and shall be thereof duly convicted, before any one of His Majesty's justices of the peace for the cities of Quebec and Montreal, respectively, the said offender shall be adjudged and condemned to pay the sum of fifteen shillings, over and above the duty due by law, for each and every horse so concealed as aforesaid; one moiety of which penalty shall be paid to the prosecutor and the other moiety to the treasurer, for the general purposes of this act.

Persons giving untrue statements to assessors.

Penalty.

Persons keeping a horse, &c. two months in the course of twelve, liable to the duty. Proviso as to time of payment.

Proviso as to notification before suits.

XXXIV. And it is hereby also declared and enacted, that the keeping a horse or horses for the space of two months in the course of twelve calendar months preceeding the time of the assessment, shall be considered keeping a horse or horses within the meaning of this act, and shall subject the owner or owners thereof to the payment of the duty herein directed: Provided always, that all assessments and the tax on horses shall be paid on or before the first of July, every year, into the hands of the road treasurer of the said districts, respectively, who shall be bound to grant an acquittance for the same, *gratis*, to every person paying the same: And provided also, that no suit or action shall be commenced or brought against any person or persons by reason of the non-payment of the assessment to be levied as aforesaid, until fifteen days notification thereof shall have been given in the Gazette

and by the public crier or bellman, under the directions of the said justices, in their respective districts.

XXXV. And be it further enacted, &c., that the said assessors are hereby authorized and ordered to take, at the several dwelling-houses in the said cities, respectively, within the time fixed for making the assessments, a list of the names of all persons, above the age of twenty-one and under the age of sixty years, who, not being liable to assessment, are subject to personal labour; and in case any person, subject to labour as aforesaid, shall refuse, omit, or wilfully avoid giving in their name, to such assessor, and shall neither contribute their labour nor pay the composition for the same, and be therefore duly convicted in manner as aforesaid, at any time within three months after the expiration of the last six months during which they were guilty of such offence,—every such offender, shall be adjudged and condemned to pay the sum of ten pence, for every day's labour that shall have been avoided, over and above the composition money due by law, for such neglect; one moiety of which penalty shall be paid to the prosecutor and the other moiety to the treasurer for the general purposes of the act.

XXXVI. And be it further enacted, &c., that every person or persons who shall offend against this act, in any matter or thing in respect whereof a penalty is herein-before specially imposed, shall forfeit and pay, for every such offence, a sum not exceeding ten shillings nor less than five shillings, currency: And all penalties and forfeitures by this act imposed for any offence against the same, and all costs and charges to be allowed under the authority thereof, shall be levied and applied in the manner and form prescribed for levying and applying penalties and forfeitures in the before-mentioned act, passed in the thirty-sixth year of His present Majesty's reign.

XXXVII. Provided further and be it also enacted, &c., that no suit or action shall be commenced or brought against any person offending against this act, unless the same shall be commenced or brought within three months next after the offence committed, and not afterwards: And provided also, that any surveyor shall be deemed a competent witness, in all matters relative to the execution of this act, notwithstanding he may be the informer, for any offence or default against the same.

XXXVIII. And be it further enacted, &c., that the treasurers of the said cities of Quebec and Montreal, are respectively authorized to institute the necessary prosecutions, according to the true intent and meaning of this act and of the before-mentioned act of the thirty-sixth year of the reign of His present Majesty, against all and every person or persons who shall have neglected or refused to pay the sums due by them, agreeable to and under the authority of the aforesaid acts.

XXXIX. And be it further enacted, &c., that if any action or suit shall be commenced against any person or persons, for any thing done or acted in pursuance of this act, then and in every such case, such action or suit shall be commenced or prosecuted within three calendar months after the fact committed and not afterwards; and the same and every such action or suit shall be brought within the district where the fact was committed, and not elsewhere; and the defendant or defendants, in every such action or suit, shall and may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this present act; and if the same

Assessors to make lists of persons who though not liable to assessment are subject to personal labour. Penalty on persons refusing to give their names to assessors.

Penalty on persons offending against this act. Penalties, &c. by this act imposed, how to be levied and applied. See Tables.

No suit, &c. to be brought after three months. Surveyor deemed a competent witness. See Tables.

Treasurers may institute prosecutions under this act and 36 Geo. 3. cap. 9. See Tables.

Actions, &c. for things done in pursuance of this act, when and where to be brought. See Tables.

General issue. Special matter.

shall appear to have been so done, or if any such action or suit shall be brought after the time limited for bringing the same, then judgment shall be given for the defendant or defendants; or if the plaintiff or the plaintiffs shall become non-suit, or discontinue his, her or their action after the defendant or defendants shall have appeared, or if judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall and may recover treble costs, and have the like remedy for the recovery thereof, as any defendant or defendants hath or have in other cases by law.

3 Geo. IV.
Cap. 19.

An Act to explain and extend the provisions of an Act passed in the thirty-sixth year of the reign of His late Majesty, intituled, *An Act for making, repairing and altering the Highways and Bridges within this Province, and for other purposes*, in so far as respects the Townships.

Preamble.

See Tables.

King's highways in the townships to be kept open by the original grantees of the Crown, or the actual proprietors.

Proviso.

WHEREAS doubts have arisen as to the liability of the non-resident proprietors of lands in the townships of this Province, who derive their titles, by inheritance, purchase or other transfer, from the original grantees of the Crown, to make and maintain the roads and bridges passing over and upon their respective lands; and whereas the settlement of the townships will be greatly promoted by compelling the original grantees of the Crown and the non-resident owners of land, to cause the necessary works to be performed on the roads through their respective properties:—Be it therefore enacted, &c., that all the King's highways, commonly called front roads, and bridges (excepting so much thereof as the grand-voyer or his deputy may declare to be public work) passing over, and which now are, or hereafter shall be laid out, according to law, through any woodlands or unoccupied lots, in any of the townships in this Province, belonging to any of the original grantees of the Crown or to their representatives, by inheritance, purchase or other transfer, shall be opened, made, repaired and kept up, according to law, by the original grantees of the Crown or by the person or persons owning such woodlands or unoccupied lots: Provided always, that nothing herein contained, shall be construed to compel the original grantees of the Crown, or other owner or owners of woodlands, to contribute to the opening, making and repairing of by-roads, or to any public work, in the township in which such woodlands or unoccupied lots may be situated, further or more than the proportion or share of such works that shall be assigned to them, respectively, by the grand-voyer or his deputy, and be specified in the *procès verbal* thereof.

2 Vict. (3.)
Cap. 7.

An Ordinance to amend the Act passed in the thirty-sixth year of the reign of King George the Third, chapter nine, commonly called the Road Act.—(*Temporary.*)

Preamble.

36 Geo. 3. cap.
9, cited.

Grand-voyers may appoint deputies.

WHEREAS it is expedient to amend a certain act passed in the thirty-sixth year of the reign of King George the Third, chapter nine, intituled, *An act for making, repairing and altering the highways and bridges within this Province, and for other purposes*:—Be it therefore ordained and enacted, &c., that from and after the passing of this ordinance, it shall be lawful for the grand-voyers, &c., (*Effete. The office being abolished. See tables.*)

Grand-voyers may increase

II. And be it further ordained and enacted, &c., that it shall also be lawful for the grand-voyer of each district to appoint more than one but not

more than three surveyors of roads in each parish, seigniority or township, the number of the extent of which, or the number of roads in which, may in his judgment surveys of roads and render such augmentation necessary, and also to increase to fifteen the number of overseers and overseer's districts in each such parish, seigniority or overseers. township; and it shall be lawful for such grand-voyer forthwith to appoint such number of overseers therein as may be requisite to complete the number of fifteen, and to appoint one surveyor or two surveyors therein, to serve until the next election of road officers for the place; and the persons so appointed shall be bound to serve as such, as if they had been elected and appointed under the authority of the act hereinbefore cited. *See Tables.*

IV. And be it further ordained and enacted, &c., that the grand-voyer, or his deputy or deputies, shall make his or their tour of inspection, as provided by the thirteenth section of the before mentioned act, twice in each year, instead of once as in the said section is provided, viz:—between the fifteenth day of April and the first day of June, and the first day of October and the fifteenth day of November, in each and every year. *Grand-voyer to make his tour of inspection twice in each year. See Tables.*

VI. And be it further ordained and enacted, &c., that the grand-voyer or his deputy shall, before making his tours of inspection, give notice in writing to each surveyor, at least eight days before the time of such tour, of the day and hour at which he will make the same, instead of giving notice thereof in the *Quebec Gazette*, as by the act hereinbefore cited, he was required to do. *Notice in writing to be given to each inspector. See Tables.*

VII. And whereas it frequently happens that two parishes are under the charge of one priest or rector, and that divine service is performed only once in a fortnight in each of them, or that there is no place of worship in certain townships or extra-parochial places:—Be it therefore further ordained and enacted, &c., that the publication of notices, required under the act hereinbefore cited or under this ordinance, shall be valid, if made by or in the presence of a surveyor or overseer of roads for the place to which they relate, in any parish in which divine service shall be celebrated by the priest having charge of the parish in which such place is situate,—a notice in writing having also been posted by such surveyor on the church door of the parish or township interested, or in default of a church at the most public place in the such parish, township or extra-parochial place. *Notices by surveyors or overseers in parishes joined under one priest or where there is no place of worship.*

IX. And whereas the act hereinbefore cited does not determine the manner in which repartitions are to be made, and that great diversity has consequently prevailed in the manner of making the same, and great injustice has sometimes been done thereby:—Be it therefore ordained and enacted, &c., that all public work, the cost of the ground taken and of the *procès verbal*, shall be apportioned by the majority of the overseers, in proportion to the extent of front of the lands held by the proprietors or occupants mentioned in such *procès verbal*; and that in any villages, each building lot shall be assessed as one-third of a lot of land of three arpents in front, if there be any lands out of such village to be assessed in the same repartition, or according to the extent of front of each building lot, if there be no such lands to be assessed. *Repartitions how to be apportioned. But see Tables.*

X. And be it further ordained and enacted, &c., that whenever the overseers shall be themselves unable to make any repartition required by law, it shall be lawful for them to employ a clerk to prepare the same, and to add to the sum to be assessed, the costs of such repartition; which costs shall be taxed by the nearest justice of the peace. *Overseers may in certain cases employ a clerk.*

Work for¹
which abandoned lands
are liable how
to be provided
for.

XI. And whereas by law, the work on roads and bridges for which lands which have been abandoned were liable, is required to be performed by the proprietors or occupants of and in the parish, seignior or township, to whom such work is most advantageous, but who are frequently the poorest settlers, possessing lands in the most remote portions of such parish, seignior or township:—Be it therefore further ordained and enacted, &c., that in any such case it shall be lawful for the surveyor or overseer for the place to cause to be taken from any land so abandoned, any timber requisite for any fence, bridge or causeway for which such land is liable, and also to sell or cause to be sold as much timber, stone or other material from off such land, as may be necessary to defray the expense of making, repairing or keeping up the roads and bridges, and to pay the contribution in money for which such land may be liable.

Grand-voyer
may order
bridges of
stone or brick.

XIII. And whereas the said act hereinbefore cited provides only for the construction of wooden bridges, eighteen feet in width:—Be it therefore further ordained and enacted, &c., that the grand-voyer or his deputy, whenever he shall deem it more advantageous to the public, may order bridges to be constructed of stone or brick, or bridges on trussels, of which he shall determine the dimensions.

See Tables.

Streets in villages to be
considered as
front roads.
See Tables.

XIV. And be it further ordained and enacted, &c., that the streets in the several villages in this Province, shall be considered as the front roads of the proprietors or occupants of lands or lots bounded by such streets, and such proprietors or occupants shall, with regard to the opening, keeping up, repairing, draining and levelling of roads, the construction, repairing and keeping up of bridges, and to all obstructions and encroachments on the public highways, be subject to the orders, pains and penalties, and to the jurisdiction of the justices of the peace and of the grand-voyer, to which the proprietors or occupants of lands in the country parts are liable or subject for their front roads or by-roads.

Winter roads.

XV. And be it further ordained and enacted, &c., that it shall and may be lawful for the road surveyors or the majority of them, in any parish or township or extra-parochial place, to cause any portion of a winter road under their direction, to be beaten, after every fall of snow, for the width of twelve feet at least.

See Tables.

Grand-voyers
or their deputies
may lay out
or alter
roads.

XVI. And be it further ordained and enacted, &c., that the grand-voyer and their deputies shall have power to lay out or alter, conforming as far as it may be practicable to the laws now in force, any roads or bridges on any lands or lots, as they may deem necessary for the public advantage, and to cause the same to pass through or along or upon any lands or lots, as they may deem the most advantageous for making such roads and bridges:

See Tables.

Proviso.
Roads running
very far
on one lot.

Provided always, that when any road shall occupy more than double the front of any such land or lots, the proprietor or occupant thereof shall not be held to the furnishing the ground, or the expense of performing the work necessary for the said road, beyond the extent of the said proportion, but the same shall be purchased and the work performed at the expense of the persons who may be held thereto by *procès verbal*: Provided also, that no road so altered or laid out in virtue of the foregoing section, shall pass so as to injure any dwelling house or occupied building, or through any garden or orchard enclosed or cultivated as such for and during the preceding two years, without the consent of the owner or occupier thereof.

Proviso.
As to dwellings,
gardens
and orchards.

XVII. And be it further ordained and enacted, &c., that it shall and may be lawful for the road surveyor of any parish, township or extra-parochial place, to call, by a sufficient notice published at least eight days before, a meeting of all persons in such parish, township or place, held to contribute materials, or perform any labour on any *route*, or by-road, or bridge,—at which meeting such road surveyor shall preside, and take the determination of the said meeting, whether the contribution or labour to which they may be held by *procès verbal*, or by law, on such *route* or bridge, shall for the season then ensuing be publicly put up and adjudged on a day, hour and place certain, to be then fixed, to the lowest and best bidder engaging to contribute and perform all that is required in respect to the said *routes* or bridges; and to be liable to all the penalties which may be incurred during the period of the said engagement, for default of the performance of the contribution or work to which the persons interested were liable, and from which they shall be and are hereby discharged during the term of such engagement; and the amount of the payments to be made to the person engaging as aforesaid, and the necessary expenses resulting therefrom, shall be apportioned among those held to the contribution or work to be done, according to the *procès verbal* relating to such *route* or bridge, and the law.

Surveyors may call a meeting to determine whether labour to which persons are liable, shall be put up and adjudged to lowest bidder.

See Tables.

XVIII. And be it further ordained and enacted, &c., that pilots, regularly licensed as such according to law, and continuing to act as pilots, shall be exempt from service as road officers, as well in the capacity of surveyors as of overseers.

Pilots exempted from serving as road officers.

See Tables.

XIX. And be it further ordained and enacted, &c., that the town and *banlieue* of Three-Rivers shall be and they are hereby withdrawn from the control of the grand-voyer, and placed under the immediate control of the justices of the peace resident therein, who shall appoint one or more surveyors and overseers for the *banlieue*, for the sief Sainte Marguerite, and for the district between the town and the ferry across the river Saint Maurice; and the said *banlieue*, sief and district shall continue to be governed by the act hereinbefore cited, as amended by this ordinance, but under the control and direction of the said justices of the peace; and all matters and things relative to the opening, widening, repairing and keeping up the streets, lanes, drains, water-courses, bridges, aqueducts, wharves, squares and public places within the said town, shall be subject to the rules and regulations, which shall be made by such justices of the peace, and sanctioned by the court of King's Bench for the district of Three-Rivers, in the superior term thereof, and published by the town crier, at the usual places, and in the usual manner: Provided always, that no such new street shall be opened or established which shall not be at least thirty French feet in width.

Town and *Banlieue* of Three-Rivers, placed under the control of the resident magistrates.

But see Tables.

XX. And whereas by the said act hereinbefore cited, it is in the second and fourth sections thereof enacted, that there shall be made a ditch three feet wide, on each side of each and every front road, or by-road, without distinction, and it frequently happens either that a narrower ditch would be sufficient, or that no ditch whatever is requisite, as in places where the road runs over sandy hills:—Be it therefore further ordained and enacted, &c., that the grand-voyer shall, in his *procès verbal*, determine in what places ditches shall be deemed necessary, and what their dimensions shall be.

Grand-voyer may determine respecting ditches.

See Tables.

XXI. And whereas, by the fifth section of the act hereinbefore cited, it is enacted, that whenever any new by-road shall be opened, the value of the cleared land only shall be paid to the proprietor, and it may happen that such by-road may be opened through woodlands of great value, or on

Woodlands taken for roads to be paid for.

which the trees are reserved for the making of sugar :—Be it therefore further ordained and enacted, &c., that whenever any by-road shall be opened across any land either wholly or partially covered with wood, the uncleared portion of such land, taken for such by-road, shall be paid for as provided in the fifth section.

Grand-voyer may direct roads to be raised in the middle.

See Tables.

XXII. And be it further declared, ordained and enacted, &c., that it shall be lawful for the grand-voyer or his deputy to order that, in places where the nature of the ground requires it, the road shall be raised in the middle, so as to give a fall on each side, whereby the water may be the more readily run off, and that the surface of the roads between the ditches, or throughout the whole breadth thereof, shall be made and kept smooth, as often as may be deemed necessary.

Extra copies of this ordinance to be printed.

XXIII. And be it further ordained and enacted, &c., that a sufficient number of copies of the present ordinance shall be printed and delivered to the grand-voyers of the several districts, to be by them forwarded to the road surveyors of the parishes, townships, or extra-parochial places within their districts, respectively, by such road surveyors to be preserved and transferred to their successors in office.

Penalty upon persons offending against this ordinance.

XXIV. And be it further ordained and enacted, &c., that each and every person, who shall in any way offend against the provisions of this ordinance, or shall disobey any order of the grand-voyer or other road officer, lawfully made under the authority thereof, or any road officer who shall refuse or neglect to comply with the requirements of this ordinance, shall thereby incur the penalty attached to a like offence, disobedience, refusal or neglect, by the act hereinbefore cited and amended, and to be recovered, paid and accounted for in the manner provided, with regard to similar penalties, by the said act.

2. ROADS, WINTER.

3 & 4-Vict.
Cap. 25.

An Ordinance to provide for the improvement, during the winter season, of the Queen's Highways in this Province, and for other purposes.

Preamble.

See Tables.

Description of sleighs to be used for transport of loads on the Queen's highways after the 15th Nov. 1840.

WHEREAS it is expedient to provide for the improvement of the Queen's highways throughout this Province during the winter season, and for the introduction of more suitable vehicles on the winter roads :—Be it therefore ordained and enacted, &c., that from and after the fifteenth day of November, one thousand eight hundred and forty, no winter carriage or vehicle without wheels, shall be used for the conveyance of any other load than passengers and their baggage, to the amount of one hundred weight for each passenger, on any or any part of the Queen's highways or public roads within this Province, except sleighs or sleds having runners at least six English feet in length on the straight part of the bottom thereof, and eight and a half feet in length including the curved part, and that have no part of the bottom of the sleigh or sled, or of the cross beams that support the bottom thereof, lower than ten English inches above the bottom of the runners, such sleigh or sled to have an open space between the runners and the raves on which the body rests, except where such space is broken by the perpendicular knees between the said raves and runners, and a clear distance of at least two and a half English feet between the inside of the runners at

the bottom thereof, nor shall the shaft or pole be attached to the body of the sleigh or sled, or runners thereof, at a lower height than ten English inches above the bottom of the runners; nor shall any such sleigh or sled be used on any such Queen's highway or public road, unless the horse or horses or other beasts of draught be harnessed abreast, or so attached to it that one or both of the runners shall follow in the track or tracks made by such horse or horses or other beasts of draught: Provided always, that if there be only one horse or beast of draught, or if no two of the horses or beasts of draught be harnessed abreast, then the left runner shall follow in the track of such horse or horses or other beasts of draught: And provided always, that the length hereinbefore prescribed for the runners of the said sleighs or sleds, shall not affect the sleds used for saw-logs or heavy timber, commonly called bob-sleds.

Manner in which the horses or beasts of draught are to be attached to the sleighs.

But see Tables.

II. Provided always, and be it further ordained and enacted, &c., that nothing in this ordinance shall extend to prevent any kind of winter carriage from being used for crossing any such Queen's highway or public road, or proceeding along it for a distance not exceeding six arpents, for the purpose of passing from one part to another of the property of the owner or owners of such carriage.

Any kind of winter carriage may be used for crossing such highways.

III. Provided also, and be it further ordained and enacted, &c., that no cariole, train, berline or other winter carriage, other than such sleighs or sleds as are hereinbefore described and permitted, shall be used on any such Queen's highway or public road, within this Province, for the conveyance of passengers and their baggage as aforesaid, unless the horse or horses, or other beast or beasts of draught drawing such carriage, shall be harnessed thereto in the manner hereinbefore prescribed with regard to the sleighs or sleds hereby permitted to be used, nor unless the shafts of such carriage (if any there be) shall be attached to such cariole, train, berline or other winter carriage at the height above the bottom of the runners hereinbefore prescribed, and fixed otherwise than under the bottom thereof.

No winter carriage to be used on such highway, &c. for conveyance of passengers, with the shafts fixed under the bottom, &c.

See Tables.

IV. And be it further ordained and enacted, &c., that when two winter vehicles meet, or a winter vehicle meets a person on horseback travelling on the same beaten track of snow, that it shall be the duty of the driver or drivers of such vehicle or vehicles, to drive their horse or horses, or other beast or beasts of draught, to the right, so that while passing but one of the runners of such vehicle or of each of such vehicles shall occupy the beaten track.

When winter vehicles meet each to drive to the right.

V. And be it further ordained and enacted, &c., that all and every the provisions of this ordinance shall extend and be applicable to all public roads defined and laid out during the winter season by lawful authority, on the rivers and other waters when frozen, and on land: Provided always, that the said provisions shall not, during three years from the passing of this ordinance, extend nor be construed to extend to any public road in the district of Quebec, except the main public or post road by which communication is had between the town of Three-Rivers and the city of Quebec.

The provisions of this ordinance applicable to all public roads during the winter season.

Exception.

See Tables.

VI. And be it further ordained and enacted, &c., that each and every person offending against the provisions of this ordinance, shall, for each such offence, incur a penalty of ten shillings currency, on conviction thereof before any justice of the peace for the district, on the oath of one credible witness other than the informer; and such justice of the peace may, if such

Penalty upon persons offending against this ordinance.

See Tables.

penalty be not forthwith paid, with the costs of the prosecution, commit the offender to the common gaol of the district, for a period not exceeding eight days.

Penalties how
to be disposed
of.

VII. And be it further ordained and enacted, &c., that one moiety of all pecuniary penalties recovered under the authority of this ordinance, shall be paid over to the receiver general, and shall belong to Her Majesty for the public uses of the Province, and the other moiety shall belong to and be paid over to the informer; and the due application of all monies so paid over for the public use, or appropriated by this ordinance, shall be accounted for to Her Majesty, Her Heirs and Successors, through the lords commissioners of the treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct.

This ordinance made
permanent.

X. And be it further ordained and enacted, &c., that this ordinance shall be and is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

4 Vict. Cap. 33. An Ordinance to amend the Laws relative to Winter Roads.

Preamble.

WHEREAS it is expedient to make further provision for the more effectual improvement of the winter roads in this Province:—Be it therefore ordained and enacted, &c., that it shall be the duty of each overseer, &c., (*This section is repealed; see Tables.*)

Duty of overseers of highways.

The enactments of 3 & 4 Vic. Cap. 25. with regard to winter carriages used for passengers, &c., extended to other winter vehicles.

See Tables.

II. And whereas doubts have arisen as to the true intent and meaning of certain parts of the ordinance passed in the third year of Her Majesty's reign, and intituled, *An ordinance to provide for the improvement, during the winter season, of the Queen's highways in this Province, and for other purposes*:—Be it therefore declared and further ordained and enacted, that each and every of the enactments of the said ordinance with regard to winter carriages or vehicles without wheels, used for the conveyance of passengers and their baggage to the amount of one hundred weight for each passenger, and with regard to persons using the same, on any or on any part of the Queen's highways or public roads in this Province, to which the provisions of the said ordinance shall then extend, do and shall extend and apply to all winter carriages or vehicles without wheels used on any part of the said highways or roads for any purpose or in any way whatever, excepting always winter carriages or vehicles without wheels used for the conveyance of loads other than passengers and their baggage to the amount aforesaid, to which the enactments of the first section of the said ordinance do and shall apply.

Respecting penalties and imprisonment of offenders.

See Tables.

III. And be it further ordained and enacted, that all penalties imposed by this ordinance, shall and may be recovered, applied and accounted for, in the manner by the said ordinance provided with regard to penalties thereby imposed; and if such penalties and the costs of prosecution be not forthwith paid, the offender may, in like manner, be committed by the justice of the peace before whom he shall have been convicted, to the common gaol of the district, for a period not exceeding eight days: Provided always, that the justice of the peace before whom any offender shall be convicted of any offence against the enactments of the said ordinance or of this ordinance, may, at his discretion, cause the amount of the penalty imposed for such offence and the costs of prosecution, if the said penalty and costs be not forthwith paid, to be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of such justice of the peace, instead of committing such offender to the common gaol of the district, as aforesaid.

Proviso:

V. And be it further ordained and enacted, that this ordinance shall be This ordinance to be permanent.
and is hereby made permanent, and shall remain in force until repealed or
altered by competent authority.

3. ROADS IN GASPÉ.

An Act more effectually to provide for the making, altering and 48 Geo. 3. Cap. 25.
repairing the Highways and Bridges, within the Inferior
District of Gaspé, and to repeal so much of an Act passed
in the thirty-sixth year of His Majesty's Reign, intituled,
*An Act for making, repairing and altering the Highways and
Bridges within this Province, and for other purposes*, as regards
the said Inferior District.

WHEREAS that part of an act, made and passed in the legislature of Preamble.
this Province, in the thirty-sixth year of His present Majesty's reign,
intituled, *An act for making, repairing and altering the highways and
bridges within this Province, and for other purposes*, which provides Part of 36
Geo. 3. cap. 9,
recited.
for the highways and bridges in the inferior district of Gaspé, has from
experience been found insufficient;—in order therefore to facilitate the
making, repairing and altering of the said highways and bridges within the
said inferior district:—Be it enacted, &c., that so much of the aforesaid act So much of 36
Geo. 3. cap. 9,
as related
specially to
Gaspé, repeal-
ed, and the
other provi-
sions of the
act extended
to the inferior-
district of Gas-
pé.
in the thirty-sixth of His present Majesty, as is contained in the thirty-fifth
clause thereof, and which authorizes the judge of the provincial court of
Gaspé, with three justices of the peace and the grand-voyer for the said
inferior district of Gaspé, to make and conclude, in their discretion, by-
laws and regulations for laying out, making and repairing highways and
bridges within the same, and which directs that no person shall be obliged
to contribute more than twelve days labour in any year, towards the making
and repairing of highways and bridges which shall be necessary to be made
by joint labour;—and every matter and thing in the said clause contained,
be and the same are hereby repealed; and that, from and after the passing
of this act, all and every the regulations and provisions in and by the said
in part recited act made, for the making, repairing and altering the high-
ways and bridges in the several country parishes, seigniories and townships
within this Province, and the powers and duties thereby given and pre-
scribed to and for the grand-voyer or his deputy, and also the nomination,
powers and duties of surveyors and overseers of roads and bridges, be and
the same are hereby extended to the several parishes, seigniories and town-
ships within the said inferior district of Gaspé, in as full and ample a man-
ner as if the said inferior district had been therein specially named and
expressed, and under the same pains, penalties and forfeitures imposed by
the said act, to be sued for, recovered and applied, as by the said act is
directed, in so far as the same may not be hereinafter particularly expressed
and declared.

III. And be it further enacted, &c., that the grand-voyer or his deputy Duty of the
grand voyer.
for the said inferior district of Gaspé, shall make his annual circuit through
the highways within the same, in the manner and for the purposes prescri-
bed and declared by the said act of the the thirty-sixth of His present Majesty
to and for the grand-voyers of the several districts of this Province, the said See Tables.
circuits to be made at the times and in the manner following, that is to say; be-

tween the twentieth day of May and the twenty-fifth day of July, he shall travel over and visit the highways and bridges on the west side of Point Mackerel in the Bay of Chaleurs, from Port Daniel to Great Nouvelle in the township of Carleton; and between the tenth and thirty-first days of August, he shall travel over and visit the highways and bridges on the east side of Point Mackerel aforesaid, from Great Pabos, as far as the town of Percé at the entry of the Bay of Gaspé.

4. ROADS NEAR QUEBEC, TURNPIKE.

4 Vict. Cap.
17.

An Ordinance to provide for the improvement of certain Roads in the neighbourhood of, and leading to the City of Quebec, and to raise a fund for that purpose.

Preamble.

The Governor may appoint trustees for the purposes of this ordinance.

WHEREAS the state of the roads hereinafter mentioned, in the neighbourhood of, and leading to the city of Quebec, is such as to render their improvement an object of immediate and urgent necessity, and it is therefore expedient to provide means for effecting such improvement, and to create a fund for defraying the expense thereof, and the expenses necessary for keeping the said roads in permanent repair:—Be it therefore ordained and enacted, &c., that it shall and may be lawful for the Governor of the said Province, by letters patent under the great seal of the Province, at any time after the passing of this ordinance, to appoint not less than five, nor more than nine persons to be, and who and their successors, to be appointed in the manner hereinafter provided, shall be trustees for the purpose of opening, making and keeping in repair the roads hereinafter specified.

In case of the death, misconduct, &c. of any of the trustees, others may be appointed.

II. And be it further ordained, &c., that in case of the death, absence for more than three months from the Province, misconduct, inability, or neglect to act, or resignation of any one or more of the trustees so to be appointed, the Governor of the said Province may declare a vacancy in the said trust, and supply and fill such vacancy by the appointment, by letters patent, of other one or more trustees as the case may require; and until such appointment, the remaining trustee or trustees, and the majority of them, shall continue to do and perform all and every the acts, matters and things necessary for and appertaining to their trust and the purposes of this ordinance.

III. *Omitted.—The trustees may sue and be sued, by a certain name, and take, acquire and hold property and estate: May improve, widen, repair, drain, &c. certain roads and the bridges thereon: May erect toll-bars, gates, turnpikes, &c.; and may employ officers and grant them compensation; and may do all other things necessary for carrying this ordinance into effect.*

IV. *Omitted.—The trustees before acquiring any land shall pay the value thereof, and compensation for damages suffered: If the party interested be not satisfied with the sum offered, the sum to be determined by a jury: The trustees shall not be bound to keep up fences, but shall pay a certain sum instead.*

V. *Omitted.—In order to prevent delay, the value, in case of dispute, may be estimated by appraisers and tendered by the trustees, subject to further decision thereafter: On tender of the amount so estimated,*

the trustees may enter into and use the lands; but neither party shall be prevented from requiring the decision of a jury as to the amount of compensation.

VI. Omitted.—In case of doubtful title, the value may be paid to the prothonotary at Quebec, for distribution thereafter, and the trustees may take possession of the land.

VII. Omitted.—An annual rent to be paid for property acquired from parties who could not in common course of law sell the same: How such rent shall be settled: Costs: The tolls levied to be chargeable with such rent.

VIII. Omitted.—The trustees may, if they think it meet, appoint one of their number to be manager of their trust; and may revoke the appointment: The majority may exercise the powers of the trustees: Service of process on them, how to be made.

IX. And be it further ordained, &c., that the roads to and over which the provisions of this ordinance and the powers of the said trustees shall extend are:—

Roads over which the powers of the trustees shall extend.

Firstly—The cove or beach road between the cliff and the river St. Lawrence, from the boundary of the city and town of Quebec, to the south-west extremity of Sillery cove. See Tables.

Secondly—The road called St. Louis road, or *La Grande Allée*, and the continuation of the same, from the boundary of the said city and town to the north-eastern extremity of the bridge over the Cap Rouge river, and of the works appertaining to the same; and also the public cross road now open at the place commonly called New Kilmarnock, and leading from the said St. Louis road to the said cove or beach road.

Thirdly—The road called St. Foy road, from the boundary of the said city and town to a point one hundred yards beyond the place where it is intersected by the road next hereinafter mentioned.

Fourthly—The road commonly called *La Suède*, from the point where it intersects the road last mentioned to the foot of the hill commonly called *La Côte de Champigny*.

Fifthly—The road which joins the last mentioned near the said *Côte de Champigny*, from the said point of junction to the south-western side of the land known as Hough's farm, a short distance beyond the point where the said road is intersected by the road crossing it nearly at right angles and leading downwards towards the Cap Rouge mill, and upwards towards the place commonly called the *Grand Désert*.

Sixthly—The main road from the boundary of the said city and town in the St. Vallier's suburbs, (near the road leading to the general hospital) along the south bank of the river St. Charles, across the stream commonly called the little river, and to the point where the said road is intersected by the road leading to the bridge over the said river St. Charles commonly called the red bridge or commissioners' bridge.

Seventhly—The road from the boundary of the said city and town near the north end of the bridge over the river St. Charles, commonly called *Dorchester bridge*, to the bridge over the river *Montmorency* near the great fall on the said river;

Provided always that the word *road* in this section shall be construed to mean as well front roads as *routes* or by-roads, and any new road or part of a road, within the said limits respectively, to be made by the said trustees. Meaning of the word road.

tween the twentieth day of May and the twenty-fifth day of July, he shall travel over and visit the highways and bridges on the west side of Point Mackerel in the Bay of Chaleurs, from Port Daniel to Great Nouvelle in the township of Carleton; and between the tenth and thirty-first days of August, he shall travel over and visit the highways and bridges on the east side of Point Mackerel aforesaid, from Great Pabos, as far as the town of Percé at the entry of the Bay of Gaspé.

4. ROADS NEAR QUEBEC, TURNPIKE.

4 Vict. Cap.
17.

An Ordinance to provide for the improvement of certain Roads in the neighbourhood of, and leading to the City of Quebec, and to raise a fund for that purpose.

Preamble.

The Governor may appoint trustees for the purposes of this ordinance.

WHEREAS the state of the roads hereinafter mentioned, in the neighbourhood of, and leading to the city of Quebec, is such as to render their improvement an object of immediate and urgent necessity, and it is therefore expedient to provide means for effecting such improvement, and to create a fund for defraying the expense thereof, and the expenses necessary for keeping the said roads in permanent repair:—Be it therefore ordained and enacted, &c., that it shall and may be lawful for the Governor of the said Province, by letters patent under the great seal of the Province, at any time after the passing of this ordinance, to appoint not less than five, nor more than nine persons to be, and who and their successors, to be appointed in the manner hereinafter provided, shall be trustees for the purpose of opening, making and keeping in repair the roads hereinafter specified.

In case of the death, misconduct, &c. of any of the trustees, others may be appointed.

II. And be it further ordained, &c., that in case of the death, absence for more than three months from the Province, misconduct, inability, or neglect to act, or resignation of any one or more of the trustees so to be appointed, the Governor of the said Province may declare a vacancy in the said trust, and supply and fill such vacancy by the appointment, by letters patent, of other one or more trustees as the case may require; and until such appointment, the remaining trustee or trustees, and the majority of them, shall continue to do and perform all and every the acts, matters and things necessary for and appertaining to their trust and the purposes of this ordinance.

III. *Omitted.*—*The trustees may sue and be sued, by a certain name, and take, acquire and hold property and estate: May improve, widen, repair, drain, &c. certain roads and the bridges thereon: May erect toll-bars, gates, turnpikes, &c.; and may employ officers and grant them compensation; and may do all other things necessary for carrying this ordinance into effect.*

IV. *Omitted.*—*The trustees before acquiring any land shall pay the value thereof, and compensation for damages suffered: If the party interested be not satisfied with the sum offered, the sum to be determined by a jury: The trustees shall not be bound to keep up fences, but shall pay a certain sum instead.*

V. *Omitted.*—*In order to prevent delay, the value, in case of dispute, may be estimated by appraisers and tendered by the trustees, subject to further decision thereafter: On tender of the amount so estimated,*

XVII. Omitted.—Tolls may be let by auction from year to year : The trustees or their principal not to become lessees, or principals or sureties on any contract for work on the said roads, &c. : Penalty.

XVIII. Omitted.—The roads are to be under the exclusive control of the trustees, from the time they assume the management thereof, and the powers of the grand-voyers, magistrates, and road officers over them shall cease from that time : The tolls to be applied exclusively to the purposes of this ordinance.

XIX. Omitted.—Parties bound by law to perform any labour on any of the said roads must commute by the payment of an annual sum : Proviso, for compelling payment of the commutation : Proviso, as to costs.

XX. Omitted.—The trustees may be appointed commissioners under 4 Victoria, chapter 21, relating to the Cap Rouge bridge:—(See tables,) in which case that bridge shall be held to be part of the roads mentioned in section IX.

XXI. And be it further ordained, &c., that it shall be lawful for the said trustees, as soon after the passing of this ordinance as may be expedient, to raise by way of loan, on the credit and security of the tolls hereby authorized to be imposed, and of other monies which may come into the possession and be at the disposal of the said trustees under and by virtue of this ordinance, and not to be paid out of or be chargeable against the general revenue of this Province, any sum or sums of money not exceeding in the whole twenty-five thousand pounds currency ; and out of the monies so raised, as well as out of the monies which shall come into their hands, and which are not hereby directed to be applied solely to one special purpose, it shall be lawful for the said trustees to defray any expenses they are hereby authorized to incur for the purposes of this ordinance.

Trustees may raise £25,000 by loan.

And pay certain expenses out of the sum raised.

XXII. And be it further ordained, &c., that it shall be lawful for the said trustees to cause to be made out for such sum or sums of money as they may raise by loan as aforesaid, debentures in the form contained in the Schedule A, to this ordinance annexed, redeemable at such time or times, (subject to the provisions herein made,) as the said trustees shall think most safe and convenient ; which said debentures shall be signed in the manner above provided for the written acts relating to the said trust,* and shall be transferable by delivery.

Debentures.
* By the manager and two out of five, or three out of any greater number of trustees, or a majority if there be no manager : section 8.
Debentures to bear interest, which may, with the sanction of the Governor, exceed 6 per cent.

XXIII. And be it further ordained, &c., that such debentures shall respectively bear interest at the rate therein mentioned ; and such interest shall be made payable semi-annually, and may at the discretion of the trustees, and with the express approval and sanction of the Governor of this Province, and not otherwise, exceed the rate of six per centum per annum, any law to the contrary notwithstanding, and shall be the lowest rate at which the said sum or sums to be loaned on any such debentures, shall be offered or can be obtained by the said trustees ; such interest to be paid out of the tolls upon the said roads, or out of any other monies at the disposal of the trustees for the purposes of this ordinance.

XXIV. And be it further ordained, &c., that if at any time after the said debentures, or any of them, shall have become due and redeemable according to the terms thereof, notice shall be inserted three several times, at intervals of not less than one month apart, in the Quebec gazette published by authority, and in some other newspaper published in the city of Quebec, requiring all holders of such debentures to present the same for payment, at a

Interest on debentures shall cease after a certain time for their being called in for payment.

place or places in the said notice mentioned,—all interest upon any debenture then redeemable, which shall remain out more than six months from the first insertion, shall cease to accrue from the end of the said six months.

Debentures may by consent be redeemed before the time appointed.

XXV. And be it further ordained, &c., that nothing herein contained shall prevent the said trustees from voluntarily redeeming any debentures, with the consent of the lawful holder thereof, at any time before such debentures shall be made redeemable, if the state of the funds of the said trustees shall be such as to warrant such redemption, and if the said trustees shall obtain the approval of the governor to such redemption.

XXVI. *Omitted.*—*The Governor may purchase for the Province debentures to the amount of £10,000 at any time before 30th January, 1844.*

All arrears of interest to be paid before any part of the principal sum; and the Governor may advance money to pay such arrears.

XXVII. And be it further ordained, &c., that if at any time it shall happen that the monies then in the hands of the said trustees shall be insufficient to enable the trustees to make any payment required or authorized to be made by this ordinance, all arrears of interest due on any debentures issued under the authority of this ordinance, shall be paid by the said trustees, before any part of the principal sum then due upon and secured by any such debenture shall be so paid; and if the deficiency be such that the funds then at the disposal of the trustees shall not be sufficient to pay such arrears of interest, it shall be lawful for the Governor for the time being, by warrant under his hand, to authorize the receiver general to advance to the said trustees, out of any unappropriated monies in his hands, such sum of money as may, with the funds then at the disposal of the trustees, be sufficient to pay such arrears of interest as aforesaid; and the amount so advanced shall be repaid by the said trustees to the receiver general out of the sums so to be commuted, levied and collected as aforesaid, and being so repaid shall remain in the hands of the receiver general at the disposal of the legislative authority of the Province.

Repayment of public monies so advanced.

The trustees may raise further sums to pay off the principal of any loan becoming due at a time certain, in the same manner as the previous loans.

Proviso; conditions on which such further loan may be raised.

XXVIII. And be it further ordained, &c., that over and above the sums which the said trustees are authorized by the preceding sections of this ordinance to raise by way of loan, it shall be lawful for the said trustees, at any time and as often as occasion may require, to raise in like manner such further sum or sums as may be necessary to enable them to pay off the principal of any loan which they have bound themselves to repay at any certain time, and which the funds in their hands, or which will probably be in their hands at such time and applicable to such repayment, shall appear insufficient to enable them to repay: Provided always, that any sum or sums raised under the authority of this section shall be applied solely to the purpose herein mentioned, that no such sum shall be borrowed without the approval of the Governor of this Province; and that the whole sum due by the said trustees under the debentures then unredeemed and issued under the authority of this ordinance, shall in no case exceed thirty-five thousand pounds, currency; and all the provisions of this ordinance touching the terms on which any sum shall be borrowed under the authority thereof by the trustees, the rate of interest payable thereon, the payment of such interest, the advance by the receiver general of the sums necessary to enable the trustees to pay such interest, and the repayment of the sums so advanced, shall be extended to any sum or sums borrowed under the authority of this section.

Application of the monies to

XXIX. And be it further ordained, &c., that the due application of all public monies whereof the expenditure or receipt is authorized by the pre-

ceding sections, shall be accounted for to Her Majesty, Her Heirs and be accounted for.
 Successors, through the lords commissioners of Her Majesty's treasury for
 the time being, in such manner and form as Her Majesty, Her Heirs and
 Successors shall be pleased to direct.

XXX. Omitted.—Counterfeiting debentures, or attempting to pass
 any, knowing them to be counterfeit, to be felony.—See tables.

XXXI. Omitted.—Wilfully injuring any turnpike-gate or work, to
 be a misdemeanor, unless the offence amount to felony.—See tables.

XXXII. Omitted.—Penalty for obstructing any of the said roads.

XXXIII. Omitted.—Penalty for attempting to evade payment of
 toll: Extra gates may be placed to prevent such evasion.

XXXIV. Omitted.—Penalty for permitting others to pass through
 lands so as to evade paying toll; and also for so evading payment.

XXXV. Omitted.—Penalties not exceeding 40s, how to be recover-
 ed and disposed of: Provisions respecting the competency of trustees
 or their servants as witnesses in suits to which the trustees are parties.

XXXVI. Omitted.—Persons committing offences to be also liable
 for damages.

XXXVII. And be it further ordained, &c., that the said trustees shall
 by detailed accounts of all monies by them received and expended under
 the authority of this ordinance, supported by proper vouchers, and also
 detailed reports of all their doings and proceedings under the said authority,
 before such officer, at such times, and in such manner and form, and shall
 publish the same in such way, at the expense of the said trustees, as the
 Governor shall be pleased to direct.

Trustees to
 furnish detail-
 ed accounts of
 their proceed-
 ings and pub-
 lish the same.

XXXVIII. Omitted.—The word " Governor " to include the Lieu-
 tenant-Governor, &c.

XXXIX. Omitted.—This ordinance to be a public act.

XL. Omitted.—This ordinance to be permanent.

Certificate No. —	Currency.	Certificate, No.	Currency.	Quebec,	18	Schedule A.
Int. at	per cent.					
	18					
Interest on this certificate paid.		We certify, that under the authority of the provincial ordinance of Lower Canada, passed in the fourth year of Her Majesty's reign, and intituled, <i>An ordinance to provide for the improvement of certain roads in the neighbourhood of, and leading to the city of Quebec, and to raise a fund for that purpose</i> , there has been borrowed and received from				
To Jan. 18	Receipt No. —				the sum of	
July —	—				pounds currency,	
Jan. 18	—				bearing interest from the date hereof, at the rate of	
July —	—				per cent. per annum, payable half yearly, on the	
Jan. 18	—				day of	
July —	—				and on the	
Jan. 18	—				day of	
July —	—				which sum is reimbursable to the	
Jan. 18	—				said	
July —	—				or bearer hereof, on	
Jan. 18	—				the	
					day of	
					in the manner	
					provided for by the provincial ordinance aforesaid.	
		Registered by	_____ } Trustees.			
			_____ }			
			_____ }			

5. ROADS NEAR MONTREAL, TURNPIKE

3 & 4 Vict.
Cap. 31.

An Ordinance to provide for the improvement of the Roads in the neighbourhood of, and leading to the City of Montreal and to raise a fund for that purpose.

Preamble.

WHEREAS the state of the roads in the neighbourhood of, and leading to the city of Montreal, is such as to render their improvement an object of immediate and urgent necessity, and it is therefore expedient to provide means for effecting such improvement, and to create a fund for defraying the expense thereof, and the expenses necessary for keeping the said roads in permanent repair :—Be it therefore ordained and enacted, &c., that it shall and may be lawful, &c. (*This section is the same as sect. 1, of 4 Vict. cap. 17, page 374.*)

II. Omitted.—*It is the same as section 2 of 4 Vict. cap. 17, page 374.*

III. Omitted.—*The trustees may sue and be sued, &c., and may acquire and hold property and estate : May improve, drain, widen, repair, &c., the said roads and bridges thereon : May erect toll-bars, gates, turnpikes, &c., and may employ officers and grant them compensation ; and may do all other things necessary for carrying this ordinance into effect.—See tables.*

IV. Omitted.—*An annual rent to be paid for lands acquired from parties who could not in common course of law sell the same : How such rent shall be settled : Costs : The tolls to be levied chargeable with such rents.—See tables.*

V. Omitted.—*The trustees before acquiring any land, to pay the value and compensation for damages : If the party interested be not satisfied with the sum offered, the same to be determined by a jury.*

VI. Omitted.—*The trustees may, if they think fit, appoint one of their number to be the manager of the trust ; and may revoke the appointment : Proviso : Proviso.*

Roads over
which the
powers of the
trustees shall
extend.
See Tables.

VII. And be it further ordained and enacted, &c., that the roads to and over which the provisions of this ordinance and the powers of the said trustees shall extend, are :—

Firstly.—The upper Lachine road, from the boundary of the city and town of Montreal, towards the south-west, to the upper entrance of the Lachine canal, and the continuation of the said road towards the *Pointe Claire*, two hundred yards above and beyond the said upper entrance of the said canal.

Secondly.—The main road from the boundary of the said city and town, towards the north-east, to the ferry over the river *des Prairies*, at the place commonly called *Bout de l'Isle*, in the parish of *La Pointe aux Trembles*.

Thirdly.—The *Côte des Neiges* road, from the boundary of the said city and town, towards the north-west, to the place called *L'Abord à Plouffe*, on the said river *des Prairies*.

Fourthly.—The main road commonly known as the continuation of the Saint Lawrence street, and leading in a north-westerly direction from the city boundary to Mile-End Tavern, and thence in the same direction to a point on the said river *des Prairies*, in the parish of *Sault au Recollet*.

Fifthly.—The road commonly called the road of the *Côte Sainte Catherine*, from the said road thirdly above mentioned, to the said road lastly above mentioned, and thence to the road next hereinafter mentioned.

Sixthly.—The road commonly called the Victoria road, from the boundary of the said city and town, towards the north-east, running to the north-west until it joins the road last abovementioned.

Seventhly.—The lower Lachine road, from the boundary of the said city and town, towards the south, to and one hundred yards beyond its junction with the cross road leading from the said lower Lachine road to the upper Lachine road hereinafter mentioned, at or near the village of *Saint Henri*.

Eighthly.—The cross road last above mentioned, and throughout its whole length as above defined.

Ninthly.—The said lower Lachine road, from a point one hundred yards below and to the eastward of the church of the parish of *Saint Michel de Lachine*, to its junction with the said upper Lachine road: Provided Word "road" interpreted. always, that the word *road* in this section, shall be construed to mean as well front roads as *routes* or bye-roads, and any new road or part of a road, (between the said points of beginning and ending of each road respectively,) to be made by the said trustees, as well as the now existing roads or portions of roads between such points.

VIII. *Is repealed.*—See tables.

IX. Provided always, and be it further ordained and enacted &c., that Her Majesty's mail, all military persons, carriages, &c., in H. M. service, and funerals, to pass toll free. Her Majesty's mail, and persons, animals and carriages employed in the conveyance thereof, Her Majesty's officers and soldiers, being in proper staff or regimental or military uniform, dress or undress, and their horses, (but not when passing in a hired or private vehicle) and all carriages and horses belonging to Her Majesty, or employed in her service, when conveying persons in such service or returning therefrom, and all recruits marching by route, and all persons, animals and carriages attending funerals, shall pass toll-free through any turnpike and toll-gate to be erected under the authority of this ordinance. See Tables.

X. *Is repealed.*—See tables.

XI. *Is repealed.*—See tables.

XII. And be it further ordained and enacted, &c., that the said trustees may, if they think proper, commute the tolls on any road or portion thereof, with any person or persons, by taking a certain sum, either monthly or yearly, in lieu of such tolls. Trustees may commute the tolls with any person.

XIII. *Omitted.*—The trustees may make an equitable arrangement with persons desiring to cross the roads: May let the tolls by auction for one year.

XIV. *Omitted.*—The said roads to be under the exclusive management of the trustees; and the powers of the grand-voyers and road officers to cease: The tolls to be applied exclusively to the purposes of this ordinance.—But see tables.

XV. *Omitted.*—Parties bound by law to perform any labour on any of the said roads, must commute by the payment of an annual sum: Mode of compelling the payment of such commutation: Proviso, as to costs.

XVI. And be it further ordained, &c., that it shall be lawful for the said trustees, as soon after the passing of this ordinance as may be expedient, to Trustees may raise £35,000,

5. ROADS NEAR MONTREAL, TURNPIKE.

3 & 4 Vict.
Cap. 31.

An Ordinance to provide for the improvement of the Roads in the neighbourhood of, and leading to the City of Montreal, and to raise a fund for that purpose.

Preamble.

WHEREAS the state of the roads in the neighbourhood of, and leading to the city of Montreal, is such as to render their improvement an object of immediate and urgent necessity, and it is therefore expedient to provide means for effecting such improvement, and to create a fund for defraying the expense thereof, and the expenses necessary for keeping the said roads in permanent repair :—Be it therefore ordained and enacted, &c., that it shall and may be lawful, &c. (*This section is the same as sect. 1, of 4 Vict. cap. 17, page 374.*)

II. Omitted.—*It is the same as section 2 of 4 Vict. cap. 17, page 374.*

III. Omitted.—*The trustees may sue and be sued, &c., and may acquire and hold property and estate : May improve, drain, widen, repair, &c., the said roads and bridges thereon : May erect toll-bars, gates, turnpikes, &c., and may employ officers and grant them compensation ; and may do all other things necessary for carrying this ordinance into effect.—See tables.*

IV. Omitted.—*An annual rent to be paid for lands acquired from parties who could not in common course of law sell the same : How such rent shall be settled : Costs : The tolls to be levied chargeable with such rents.—See tables.*

V. Omitted.—*The trustees before acquiring any land, to pay the value and compensation for damages : If the party interested be not satisfied with the sum offered, the same to be determined by a jury.*

VI. Omitted.—*The trustees may, if they think fit, appoint one of their number to be the manager of the trust ; and may revoke the appointment : Proviso : Proviso.*

Roads over
which the
powers of the
trustees shall
extend.
See Tables.

VII. And be it further ordained and enacted, &c., that the roads to and over which the provisions of this ordinance and the powers of the said trustees shall extend, are :—

Firstly.—The upper Lachine road, from the boundary of the city and town of Montreal, towards the south-west, to the upper entrance of the Lachine canal, and the continuation of the said road towards the *Pointe Claire*, two hundred yards above and beyond the said upper entrance of the said canal.

Secondly.—The main road from the boundary of the said city and town, towards the north-east, to the ferry over the river *des Prairies*, at the place commonly called *Bout de l'Isle*, in the parish of *La Pointe aux Trembles*.

Thirdly.—The *Côte des Neiges* road, from the boundary of the said city and town, towards the north-west, to the place called *L'Abord à Plouffe*, on the said river *des Prairies*.

Fourthly.—The main road commonly known as the continuation of the Saint Lawrence street, and leading in a north-westerly direction from the city boundary to Mile-End Tavern, and thence in the same direction to a point on the said river *des Prairies*, in the parish of *Sault au Recollet*.

XXXIII. Omitted.—*This ordinance to be a public act.*

XXXIV. Omitted.—*This ordinance to be permanent.*

Certificate, No. —	ROAD LOAN.	Schedule A.
Currency.	Certificate, No. }	
Int. at per cent.	Currency. }	Montreal, 18 .
18 .	We certify, that under the authority of the provincial ordinance of Lower Canada, passed on the fifteenth day of June, 1840, (3d Victoria, cap. 31,) intituled, <i>An ordinance to provide for the improvement of the roads in the neighbourhood of, and leading to the city of Montreal, and to raise a fund for that purpose</i> , there has been borrowed and received from the sum of	
Interest on this certificate paid.	Pounds currency,	
To Jan. 18 — Receipt No. —	bearing interest from the date hereof, at the rate of	
July — —	per cent. per annum, payable half yearly, on the	
Jan. 18 —	day of and which sum is rein-	
July — —	bursable to the said	
Jan. 18 —	or bearer hereof, on or before the day of	
July — —	in the manner provided for by the provin-	
Jan. 18 —	cial ordinance aforesaid.	
	Registered by _____ } Trustees.	
	_____ }	
	_____ }	

An Ordinance to amend and extend the provisions of an ordinance passed in the third year of Her Majesty's Reign, intituled, *An Ordinance to provide for the improvement of the Roads in the neighbourhood of, and leading to the City of Montreal, and to raise a fund for that purpose.* 4 Vict. Cap. 7.

WHEREAS it is expedient to amend a certain ordinance, &c., (3 & 4 Vict. cap. 31.) :—Be it therefore ordained and enacted, &c., 3 & 4 Vict. cap. 31, cited. Preamble.
 that in addition to the roads to and over which the provisions of the aforesaid ordinance, passed in the third year of Her Majesty's reign, and the powers of the trustees therein mentioned, are extended by the seventh section of the said ordinance, the said provisions and powers shall be and are hereby extended to the roads hereinafter mentioned, as fully as if the said roads were expressly mentioned and included in the said seventh section of the said ordinance, or as if the said powers and provisions in the said ordinance contained, were embodied in this ordinance, and hereby re-enacted with reference to the said roads, that is to say :—*Firstly*—to the *Côte St. Antoine* road, from the boundary of the said city of Montreal, towards the south-west, to the point where the said road strikes the road running from the upper Lachine road, in a north-westerly direction, nearly at right angles to the road last aforesaid :—*Secondly*—to the last mentioned road, from the point of its departure from the said upper Lachine road, in a north-westerly direction, to its junction with the cross road running in a north-easterly direction to the *Côte des Neiges* road, and the said cross-road from the said point of junction until it strikes the said *Côte des Neiges* road. The provisions of 3 & 4 Vict. cap. 31, and the powers of the trustees therein mentioned, extended to certain other roads. See Tables.

II. Omitted. — *The trustees may, at their discretion, substitute another line of road for the upper Lachine road, or may retain the same.—See tables.*

III. Omitted.—*The powers vested in the trustees with regard to the roads mentioned in 3 & 4 Vict., cap. 31, extended to those to be opened under this ordinance.*

IV. Omitted.—*In case the line of road first mentioned in the second section should be adopted, a certain portion of the upper Lachine road to be excepted from the operation of the said ordinance.*

V. Omitted.—*And in like case, the said new line to be substituted for that portion of the upper Lachine road.—But see tables.*

VI. Omitted.—*In order to complete certain communications near the lower end of the Island of Montreal, the trustees may acquire certain islands and real property, at or near the confluence of the rivers Ottawa and l'Assomption with the Saint Lawrence, and in the parishes of Repentigny and Lachenaye, and may, with the approval of the Governor, &c., erect certain bridges near the places aforesaid.*

VII. Omitted.—*A draw-bridge to be erected between Isle Bourdon and the Island of Montreal.—See tables.*

VIII. Omitted.—*The trustees may dispose of the said lands and islands, with the sanction of the Governor.—(See tables.) How the proceeds are to be applied.*

IX. Omitted.—*The trustees may exact and receive tolls on the said bridges, (See tables) not exceeding certain rates: They may construct toll-bars, and make regulations for the collection of the tolls, &c.: A table of the tolls to be affixed at each toll-bar.*

X. Omitted.—*No higher tolls to be exacted than herein authorized:—(See tables.) Exemptions from toll to be the same as on the roads.*

XI. Omitted.—*Penalty on any person ferrying for hire within half a league of the said bridges.—(See tables.) Proviso: as to persons crossing on the ice.*

XII. Omitted.—*The powers, &c., vested in the magistrates, grand-voyers, and other road officers, by 36 Geo. 3. cap. 9, over the said several roads, shall cease, as to each section of road, from the time the trustees assume the control of such section, and not before; anything in 3 & 4 Vict., cap. 31, section 14, notwithstanding.—See tables.*

XIII. Omitted.—*To prevent delay, if any party entitled to compensation for land be not satisfied with the sum offered, the amount to be estimated by appraisers, and the trustees, on tendering the amount estimated, may enter into and use the lands: But neither party to be prevented from subsequently requiring the decision of a jury as to the amount of compensation.*

XIV. Omitted.—*In case of a doubtful title, the amount to be paid to the prothonotary at Montreal, for distribution thereafter, and the trustees to take possession of the land.*

XV. Omitted.—*The trustees may agree with the corporation of the city of Montreal to complete such parts of the several roads as lie within the limits of the said city: Provided the corporation shall repay the cost as soon as the roads are completed.*

The trustees
may raise an
additional sum
of £12,000 by

XVI. And be it further ordained, &c., that in addition to the loan of thirty-five thousand pounds, currency, by the sixteenth section of the said ordinance passed in the third year of Her Majesty's reign, authorized to be

raised for the purposes of the said ordinance, it shall be lawful for the said trustees, and they are hereby authorized to raise, by way of loan, on the security of the tolls by the said ordinance and by this ordinance authorized to be imposed, and of other monies which may come into the possession and be at the disposal of the said trustees, under and by virtue of the said ordinance and of this ordinance, and not to be paid out of or chargeable against the general revenue of this Province, any further sum of money not exceeding twelve thousand pounds, currency, for the purposes in the said ordinance and this ordinance authorized and specified; and the debentures for such further loan, and also for so much of the loan authorized by the ordinance aforesaid as hath not yet been raised, shall respectively bear interest at the rate to be therein mentioned, which interest may at the discretion of the trustees, but with the express approval and sanction of the Governor, Lieutenant-Governor, or person administering the government of this Province, and not otherwise, exceed the rate of six per centum per annum, any law to the contrary notwithstanding; and such interest shall be paid out of the tolls upon the roads, or out of any other monies at the disposal of the said trustees, for the purposes of the said ordinance and of this ordinance: Provided always, that if the said tolls and other monies shall not at any time be sufficient to pay the amount then due for such interest, it shall and may be lawful for the Governor of this Province, for the time being, by warrant under his hand, to authorize the sum requisite to enable the said trustees to meet such deficiency to be advanced and paid to the receiver general of this Province, from and out of any unappropriated public monies in his hands,—such advances and payments to be thereafter accounted for and repaid to the government of this Province, by the said trustees and their successors, in the manner prescribed in and by the twenty-third section of the said ordinance, passed in the third year of Her Majesty's reign.

loan, and issue debentures for the same, bearing interest.

The Governor may advance money to pay the interest, in case the funds of the trustees shall be insufficient.

XVII. And be it further ordained, &c., that over and above the sums which the said trustees are authorized by the preceding section of this ordinance and by the ordinance hereby amended, to raise by way of loan, it shall be lawful for the said trustees, at any time and as often as occasion may require, to raise in like manner such further sum or sums as may be necessary to enable the trustees to pay off the principal of any loan which they may have bound themselves to repay at any certain time, and which the funds in their hands or which will probably be in their hands at such time, and applicable to such repayment, shall appear insufficient to enable them to repay: Provided always, that any sum or sums raised under the authority of this section, shall be applied solely to the purpose herein mentioned, that no such sum shall be borrowed without the approval of the Governor, Lieutenant-Governor, or person administering the government of this Province, and that the whole sum due by the said trustees, under debentures then unredeemed and issued under the authority of this ordinance and of the ordinance hereby amended, shall in no case exceed fifty-seven thousand pounds, currency; and all the provisions of this ordinance and of the ordinance hereby amended, touching the terms on which any sum shall be borrowed under the authority thereof by the trustees, the rate of interest payable thereon, the payment of such interest, the advance by the receiver general of the sums necessary to enable the trustees to pay such interest, and the repayment of the sums so advanced, shall be extended to any sum or sums borrowed under the authority of this section.

The trustees may raise further sums to pay off the principal of any loan becoming due at a certain time, under the same provisions as the previous loans.

Provide.

III. Omitted.—*The powers vested in the trustees with regard to the roads mentioned in 3 & 4 Vict., cap. 31, extended to those to be opened under this ordinance.*

IV. Omitted.—*In case the line of road first mentioned in the second section should be adopted, a certain portion of the upper Lachine road to be excepted from the operation of the said ordinance.*

V. Omitted.—*And in like case, the said new line to be substituted for that portion of the upper Lachine road.—But see tables.*

VI. Omitted.—*In order to complete certain communications near the lower end of the Island of Montreal, the trustees may acquire certain islands and real property, at or near the confluence of the rivers Ottawa and l'Assomption with the Saint Lawrence, and in the parishes of Repentigny and Lachenaye, and may, with the approval of the Governor, &c., erect certain bridges near the places aforesaid.*

VII. Omitted.—*A draw-bridge to be erected between Isle Bourdon and the Island of Montreal.—See tables.*

VIII. Omitted.—*The trustees may dispose of the said lands and islands, with the sanction of the Governor.—(See tables.) How the proceeds are to be applied.*

IX. Omitted.—*The trustees may exact and receive tolls on the said bridges, (See tables) not exceeding certain rates: They may construct toll-bars, and make regulations for the collection of the tolls, &c.: A table of the tolls to be affixed at each toll-bar.*

X. Omitted.—*No higher tolls to be exacted than herein authorized:—(See tables.) Exemptions from toll to be the same as on the roads.*

XI. Omitted.—*Penalty on any person ferrying for hire within half a league of the said bridges.—(See tables.) Proviso: as to persons crossing on the ice.*

XII. Omitted.—*The powers, &c., vested in the magistrates, grand-voyers, and other road officers, by 36 Geo. 3. cap. 9, over the said several roads, shall cease, as to each section of road, from the time the trustees assume the control of such section, and not before; anything in 3 & 4 Vict., cap. 31, section 14, notwithstanding.—See tables.*

XIII. Omitted.—*To prevent delay, if any party entitled to compensation for land be not satisfied with the sum offered, the amount to be estimated by appraisers, and the trustees, on tendering the amount estimated, may enter into and use the lands: But neither party to be prevented from subsequently requiring the decision of a jury as to the amount of compensation.*

XIV. Omitted.—*In case of a doubtful title, the amount to be paid to the prothonotary at Montreal, for distribution thereafter, and the trustees to take possession of the land.*

XV. Omitted.—*The trustees may agree with the corporation of the city of Montreal to complete such parts of the several roads as lie within the limits of the said city: Provided the corporation shall repay the cost as soon as the roads are completed.*

The trustees
may raise an
additional sum
of £12,000 by

XVI. And be it further ordained, &c., that in addition to the loan of thirty-five thousand pounds, currency, by the sixteenth section of the said ordinance passed in the third year of Her Majesty's reign, authorized to be

part of any such highway as part of any of the said roads, or may deviate therefrom, and make the said roads either wholly or partly on or in a new line or lines, direction or directions, as to them shall appear most for the public advantage, and most likely to ensure the attainment of the object of this ordinance.

IV. *Omitted.*—*The trustees may sue and be sued, &c., by a certain name, (see section XVIII,) and may acquire property and real estate : The price to be paid for property may be established by mutual agreement or by arbitration.*

V. *Omitted.*—*An annual rent to paid for property acquired from parties who cannot, in common course of law, sell the same : Such rent to be settled by consent or by arbitration.*

VI. *Omitted.*—*In default of the parties agreeing upon or submitting to arbitration the amount of the said price or annual rent, the same shall be settled by judgment of a competent court ; but the trustees may, in the meantime, take possession, on tendering the estimated value : The tolls to be chargeable with the annual rents : Damages to be ascertained in the same manner as compensation for land taken.*

VII. *Omitted.*—*The said roads, &c., to be under the exclusive control of the trustees : They shall have certain powers necessary for performing the work and carrying this ordinance into effect : May appoint and remove officers, &c.*

VIII. *Omitted.*—*The roads to be public highways ; and any part abandoned by changing the direction of them, may be sold, and the money applied for the purposes of this ordinance.*

IX. *Omitted.*—*The trustees may demand tolls on the said roads, not exceeding certain rates : They may make regulations for the collection of the said tolls ; and with the consent of the Governor, &c., may lower and again raise them : A table of the tolls to be affixed at each turnpike gate, &c.*

X. Provided always, and be it further ordained, &c., that Her Majesty's mail, and persons, animals and carriages employed in the conveyance thereof, Her Majesty's naval and military officers, and sailors and soldiers when on service, and being in naval or military uniform, dress or undress, and their horses (but not when passing in a hired or private vehicle) and all carriages, horses and animals belonging to Her Majesty or employed in her service, when conveying persons in such service or returning therefrom, and all naval and military recruits marching by route, and all persons, animals and carriages attending funerals, shall pass toll free along the said road and through the turnpike-gates and toll-bars thereon to be erected under the authority of this ordinance.

XI. Provided always, and be it further ordained, &c., that no more than one full toll in any one day (to be computed from twelve of the clock at night to twelve of the clock in the next succeeding night) shall be demanded or taken for or in respect of the same horse or horses, or other beast or beasts or cattle, drawing the same waggon, wain, cart, coach, gig, caleche, dennet, spring-cart or other wheel carriage or winter carriage, or for or in respect of the same horse, mule, ass or other beast or cattle, laden or unladen or not drawing, or for or in respect of the same oxen or ox, neat cattle, calves, swine, sheep or lambs, for passing and repassing through all or any

Certain exemptions from toll.

See Tables.

Certain exemptions from the payment of more than one full toll in any one day.

XVIII. *Is the same as section 29 of 4 Vict. cap. 17, page 378.*

XIX. *Omitted.—The provisions of 3 & 4 Vict. cap. 31, extended to debentures under this ordinance.*

XX. *Omitted.—Wilfully injuring any bridge, &c., to be a misdemeanor, and the offender liable to be fined and imprisoned, and for damages.—(See tables.)—The provisions, penalties, &c., provided by 3 & 4 Vict. cap. 31, extended to cases under this ordinance.*

XXI. *Omitted.—This ordinance to be a public act.*

XXII. *Omitted.—This ordinance to be permanent.*

6. TURNPIKE ROAD FROM LONGUEUIL TO CHAMBLY.

4 Vict. Cap. 16. An Ordinance for establishing and maintaining better means of communication between the City of Montreal and Chambly.

Preamble.

WHEREAS it is expedient to provide better means of communication between the city of Montreal and the canton of Chambly, on the canal connecting the navigable waters of the river Saint Lawrence with those of lake Champlain, and also between the said city and the parishes, townships and tract of country lying in the neighbourhood of Chambly aforesaid, or beyond it on the same side of the river St. Saint Lawrence, and in nearly the same direction from the said city; and whereas, for the purposes aforesaid, it is expedient to authorize the construction of a sufficient turnpike road between some point near the village of Longueuil and the said canton of Chambly, with a branch road to a point on the basin of Chambly, near the entrance of the said canal into the said basin, and to provide funds for defraying the expense of making the said road and of keeping it permanently in a state of efficient repair:—Be it therefore ordained, &c., that it shall and may be lawful, &c. (*This section is the same as section 1 of 4 Vict. cap. 17, page 374.*)

The Governor may appoint trustees for the purposes of this ordinance.

II. *Omitted.—It is the same as section 2 of 4 Vict., cap. 17, page 374, with a proviso, that the trustees may, from time to time, appoint one of their number to be the manager of the trust, and may, at pleasure, revoke such appointment.*

The trustees may make and construct, &c., certain roads and bridges between Longueuil and Chambly.

III. And be it further ordained, &c., that the said trustees shall and may make and construct, maintain and keep in efficient repair, a road from the waters of the river Saint Lawrence, at or near the village of Longueuil, (from a point at or within seven hundred yards of the landing place used for the present ferry between the said village and the north bank of the said river,) towards the said canton of Chambly, and until the road so made shall intersect the river called *La Petite Rivière*, in the parish of Chambly, and shall and may in like manner make, construct, maintain and keep in efficient repair, a road from the point last mentioned to a point on the basin of Chambly at or within two hundred yards of the landing place of the present ferry across the said basin to *La Pointe Olivier*, and another road from the said point on the river called *La Petite Rivière*, to a point in the place called the Canton of Chambly, within one hundred yards of the fort; and shall and may build, construct and perform all such bridges and other works as may be necessary for completing and using the said roads: Provided always, that the said trustees may make the said roads either wholly or partly along the line of any existing public highway, and may adopt and use any

Proviso

their trust) and to hold any real estate or property which shall be deemed by the said trustees to be requisite and useful for the purpose aforesaid, and for rendering the access to the said ferry commodious and easy: Provided Proviso as to such real property. always, that no real estate or property to be purchased or acquired for the purposes in this section mentioned, shall be so purchased or acquired without the express sanction and approval of the Governor of this Province; and that no real estate or property shall be purchased, acquired or held for the said purposes, within the limits of the harbour of Montreal, which shall, for Limits of the harbour of Montreal. the purposes of this section, be held to extend from the entrance of the La-chine canal to the lower extremity of the revetment wall adjoining the government works at the commissariat store.

XIX. Omitted.—*Tolls for ferriage to be taken for passengers, animals and carriages, not exceeding certain rates, which may be doubled if the distance exceeds two miles: They may establish rates of ferriage for grain and various other articles; and may, with the consent of the Governor, &c., lower the tolls, and again raise them, provided they do not exceed the said rates: Tables of the tolls, &c., to be affixed in conspicuous places, in each ferry-boat: Carriages, &c., may be detained for toll due on them.*

XX. And be it further ordained, &c., that the said trustees may, if they think proper, commute the tolls on the said ferry, with any person or persons by taking a certain sum of money, either yearly or monthly, in lieu thereof. The tolls may be commuted.

XXI. Omitted.—*Wilfully destroying or injuring any ferry-boat, &c., to be a misdemeanor, unless the offence amount to felony.—See tables.*

XXII. Omitted.—*Parties justly entitled to indemnification, on account of the establishment of the ferry, to be indemnified.*

XXIII. Omitted.—*Wilfully injuring any turnpike-gate, &c., to be a misdemeanor.—See tables.*

XXIV. Omitted.—*Penalty for wilfully obstructing any road.*

XXV. Omitted.—*Penalty for attempting to evade payment of toll: Extra gates may be placed to prevent such evasion.*

XXVI. Omitted.—*Penalty for permitting others to pass through lands so as to evade paying toll, and also for evading such payment.*

XXVII. Omitted.—*Penalties not exceeding 40s, how to be recovered and disposed of: An informer, renouncing his share of the penalty, to be a competent witness.*

XXVIII. Omitted.—*Persons committing offences to be also liable for damages.*

XXIX. Omitted.—*The trustees, and those employed by them, to be competent witnesses, if they have no more direct interest in the penalty or in the suit.*

XXX. Omitted.—*No trustee, officer, &c., to become principal or surety to any contract relative to the road, ferry or other works, or lessee of the tolls: Penalty.*

XXXI. And be it further ordained, &c., that it shall be lawful for the said trustees, as soon after the passing of this ordinance as may be expedient, and for the purposes of their said trust, to raise by way of loan on the credit Trustees may raise £15,000 by loan.

and security of the tolls by this ordinance authorized to be levied, and of other monies which may come into the possession and be at the disposal of the said trustees, under and by virtue of this ordinance, and not to be paid out of or chargeable against the general revenue of this Province, any sum or sums of money not exceeding in the whole fifteen thousand pounds, currency; and out of the monies so raised, as well as out of the other monies which shall come into their hands, and which are not hereby directed to be applied solely to one special purpose, it shall be lawful for the said trustees to defray any expenses they are hereby authorized to incur for the purposes of this ordinance.

Debentures bearing interest to be issued for the said loan.

XXXII. And be it further ordained, &c., that it shall and may be lawful for the said trustees to issue debentures, in the form to be approved of by the Governor of this Province, for the said sums by this ordinance authorized to be raised, and such debentures shall respectively bear interest at the rate therein mentioned until redeemed; and such interest shall be payable semi-annually, and may at the discretion of the trustees, (but with the express approval and sanction of the Governor of this Province, and not otherwise,) exceed the rate of six per centum per annum, any law to the contrary notwithstanding, but shall be the lowest rate at which the sum or sums to be borrowed on such debentures shall be offered or can be obtained; and the said interest shall be paid out of the tolls to be levied on the said roads or ferry by virtue of this ordinance, or out of any other monies at the disposal of the trustees for the purposes of their trust; but if the said tolls and other monies shall not at any time be sufficient to pay the interest then due, it shall and may be lawful for the Governor of this Province, for the time being, by warrant under his hand, to authorize the sum necessary to meet the deficiency to be advanced and paid by the receiver general of this Province to the said trustees, from and out of the unappropriated monies in his hands; and such advances shall be thereafter accounted for by the said trustees and repaid to the said receiver general of this Province from and out of the tolls to be levied or other monies which shall come into their hands by virtue of this ordinance for the purposes thereof, and being so repaid shall remain in the hands of the receiver general at the disposal of the legislative authority of this Province.

The trustees may raise further sums to pay off the principal of any loan becoming due at a certain time.

XXXIII. And be it further ordained, &c., that over and above the sums which the said trustees are authorized, by the preceeding sections of this ordinance, to raise by way of loan, it shall be lawful for the said trustees, at any time and as often as occasion may require, to raise, in like manner, such further sum or sums as may be necessary to enable them to pay off the principal of any loan which they may have bound themselves to repay at any certain time, and which the funds in their hands or which will probably be in their hands at such time, and applicable to such repayment, shall appear insufficient to enable them to repay: Provided always, that any sum or sums raised under the authority of this section shall be applied solely to the purpose herein mentioned, that no such sum shall be borrowed without the approval of the Governor, Lieutenant-Governor, or person administering the government of this Province, and that the whole sum due by the said trustees, under debentures then unredeemed and issued under the authority of this ordinance, shall in no case exceed twenty thousand pounds, currency; and all the provisions of this ordinance touching the terms on which any sum shall be borrowed under the authority thereof by the trustees, the rate of interest payable thereon, the payment of such

interest, the advance by the receiver general of the sums necessary to enable the trustees to pay such interest, and the repayment of the sums so advanced, shall be extended to any sum or sums borrowed under the authority of this section.

XXXIV. *Omitted.*—*Counterfeiting debentures, or attempting to pass any, knowing them to be counterfeit, to be felony.*—*See tables.*

XXXV. And be it further ordained, &c., that if at any time after the said debentures or any of them shall have become due and payable according to the terms thereof, notice shall be inserted three several times, at intervals of not less than one month apart, in one of the newspapers published in the city of Montreal, and in the Quebec gazette published by authority, requiring all holders of such debentures to present the same, at a place or places in the said notice to be specified, for payment, all interest upon any debenture then payable, which shall remain out more than six months from the first insertion of such notice in such newspaper and gazette, shall cease to accrue from the end of the said six months.

The interest on debentures shall cease to accrue, after a certain time from their being called in.

XXXVI. Provided always, that nothing herein contained shall prevent the said trustees from voluntarily redeeming any debenture, with the consent of the lawful holder thereof, at any time before such debenture shall have been made redeemable, if the state of the funds of the said trustees shall warrant such redemption with advantage to the public interest, and if the said trustees shall obtain the approval of the Governor to such redemption.

Debentures may by consent be redeemed before the time appointed.

XXXVII. *Is the same as section 29 of 4 Vict. cap. 17, page 378.*

XXXVIII. *Is the same as section 37 of 4 Vict. cap. 17, page 379.*

XXXIX. *Omitted.*—*The word "Governor" to include the Lieutenant-Governor, &c.*

XL. *Omitted.*—*This ordinance to be a public act.*

XLI. *Omitted.*—*This ordinance to be permanent.*

7. TEMISCOUATA PORTAGE ROAD.

An Ordinance to provide means of keeping in repair that part of the Road from this Province to New Brunswick, commonly called the Temiscouata Portage Road. 4 Vict. Cap. 8.

WHEREAS divers sums of the public money have been appropriated for repairing and improving that part of the road from this Province to the Province of New Brunswick, which is commonly known by the name of the Temiscouata Portage road, and for altering the line of the said road in places where such alteration was necessary; and whereas Thomas Allen Starner, Her Majesty's deputy post-master general for British North America, and William Henry Griffin, esquires, have been appointed and now are commissioners for superintending the expenditure of the sums so appropriated as aforesaid, and for making, repairing and altering the said road, and have caused the same to be made, repaired and altered accordingly; and whereas it is expedient to provide means for keeping the said road in permanent and efficient repair:—Be it therefore ordained and enacted, &c., that such persons not exceeding five in number, as the Governor, Lieutenant Governor, or person administering the government shall appoint, shall be and they are hereby constituted trustees for keeping the said road, commonly called the Temiscouata Portage road, in permanent and efficient repair.

Preamble.

The Governor to appoint trustees for keeping the road in repair.

and security of the tolls by this ordinance authorized to be levied, and of other monies which may come into the possession and be at the disposal of the said trustees, under and by virtue of this ordinance, and not to be paid out of or chargeable against the general revenue of this Province, any sum or sums of money not exceeding in the whole fifteen thousand pounds, currency; and out of the monies so raised, as well as out of the other monies which shall come into their hands, and which are not hereby directed to be applied solely to one special purpose, it shall be lawful for the said trustees to defray any expenses they are hereby authorized to incur for the purposes of this ordinance.

Debentures bearing interest to be issued for the said loan.

XXXII. And be it further ordained, &c., that it shall and may be lawful for the said trustees to issue debentures, in the form to be approved of by the Governor of this Province, for the said sums by this ordinance authorized to be raised, and such debentures shall respectively bear interest at the rate therein mentioned until redeemed; and such interest shall be payable semi-annually, and may at the discretion of the trustees, (but with the express approval and sanction of the Governor of this Province, and not otherwise,) exceed the rate of six per centum per annum, any law to the contrary notwithstanding, but shall be the lowest rate at which the sum or sums to be borrowed on such debentures shall be offered or can be obtained; and the said interest shall be paid out of the tolls to be levied on the said roads or ferry by virtue of this ordinance, or out of any other monies at the disposal of the trustees for the purposes of their trust; but if the said tolls and other monies shall not at any time be sufficient to pay the interest then due, it shall and may be lawful for the Governor of this Province, for the time being, by warrant under his hand, to authorize the sum necessary to meet the deficiency to be advanced and paid by the receiver general of this Province to the said trustees, from and out of the unappropriated monies in his hands; and such advances shall be thereafter accounted for by the said trustees and repaid to the said receiver general of this Province from and out of the tolls to be levied or other monies which shall come into their hands by virtue of this ordinance for the purposes thereof, and being so repaid shall remain in the hands of the receiver general at the disposal of the legislative authority of this Province.

The trustees may raise further sums to pay off the principal of any loan becoming due at a certain time.

XXXIII. And be it further ordained, &c., that over and above the sums which the said trustees are authorized, by the preceeding sections of this ordinance, to raise by way of loan, it shall be lawful for the said trustees, at any time and as often as occasion may require, to raise, in like manner, such further sum or sums as may be necessary to enable them to pay off the principal of any loan which they may have bound themselves to repay at any certain time, and which the funds in their hands or which will probably be in their hands at such time, and applicable to such repayment, shall appear insufficient to enable them to repay: Provided always, that any sum or sums raised under the authority of this section shall be applied solely to the purpose herein mentioned, that no such sum shall be borrowed without the approval of the Governor, Lieutenant-Governor, or person administering the government of this Province, and that the whole sum due by the said trustees, under debentures then unredeemed and issued under the authority of this ordinance, shall in no case exceed twenty thousand pounds, currency; and all the provisions of this ordinance touching the terms on which any sum shall be borrowed under the authority thereof by the trustees, the rate of interest payable thereon, the payment of such

interest, the advance by the receiver general of the sums necessary to enable the trustees to pay such interest, and the repayment of the sums so advanced, shall be extended to any sum or sums borrowed under the authority of this section.

XXXIV. *Omitted.*—*Counterfeiting debentures, or attempting to pass any, knowing them to be counterfeit, to be felony.*—*See tables.*

XXXV. And be it further ordained, &c., that if at any time after the said debentures or any of them shall have become due and payable according to the terms thereof, notice shall be inserted three several times, at intervals of not less than one month apart, in one of the newspapers published in the city of Montreal, and in the Quebec gazette published by authority, requiring all holders of such debentures to present the same, at a place or places in the said notice to be specified, for payment, all interest upon any debenture then payable, which shall remain out more than six months from the first insertion of such notice in such newspaper and gazette, shall cease to accrue from the end of the said six months.

The interest on debentures shall cease to accrue, after a certain time from their being called in.

XXXVI. Provided always, that nothing herein contained shall prevent the said trustees from voluntarily redeeming any debenture, with the consent of the lawful holder thereof, at any time before such debenture shall have been made redeemable, if the state of the funds of the said trustees shall warrant such redemption with advantage to the public interest, and if the said trustees shall obtain the approval of the Governor to such redemption.

Debentures may by consent be redeemed before the time appointed.

XXXVII. *Is the same as section 29 of 4 Vict. cap. 17, page 378.*

XXXVIII. *Is the same as section 37 of 4 Vict. cap. 17, page 379.*

XXXIX. *Omitted.*—*The word "Governor" to include the Lieutenant-Governor, &c.*

XL. *Omitted.*—*This ordinance to be a public act.*

XLI. *Omitted.*—*This ordinance to be permanent.*

7. TEMISCOUATA PORTAGE ROAD.

An Ordinance to provide means of keeping in repair that part of the Road from this Province to New Brunswick, commonly called the Temiscouata Portage Road. 4 Vict. Cap. 8.

WHEREAS divers sums of the public money have been appropriated for repairing and improving that part of the road from this Province to the Province of New Brunswick, which is commonly known by the name of the Temiscouata Portage road, and for altering the line of the said road in places where such alteration was necessary; and whereas Thomas Allen Staryner, Her Majesty's deputy post-master general for British North America, and William Henry Griffin, esquires, have been appointed and now are commissioners for superintending the expenditure of the sums so appropriated as aforesaid, and for making, repairing and altering the said road, and have caused the same to be made, repaired and altered accordingly; and whereas it is expedient to provide means for keeping the said road in permanent and efficient repair:—Be it therefore ordained and enacted, &c., that such persons not exceeding five in number, as the Governor, Lieutenant Governor, or person administering the government shall appoint, shall be and they are hereby constituted trustees for keeping the said road, commonly called the Temiscouata Portage road, in permanent and efficient repair.

Preamble.

The Governor to appoint trustees for keeping the road in repair.

In certain cases the Governor may appoint other trustees.

II. And be it further ordained and enacted, &c., that in case of the death, absence for more than three months from the Province, misconduct, inability or neglect to act, or resignation of any one or more of the trustees so to be appointed, the Governor, Lieutenant-Governor or person administering the government, may declare a vacancy in the said trust, and supply and fill such vacancy, by the appointment of other one or more trustees, as the case may require.

III. *Omitted.*—*The trustees may erect a turnpike-gate and toll-house across the road : Certain tolls may be demanded at such gate : The trustees may diminish and again increase such tolls, not exceeding the said rates : And may abate the tolls upon winter carriages constructed in a certain manner.—But see tables.*

IV. *Omitted.*—*Carriages, animals, &c., may be detained till the tolls due on them are paid : Penalty for forcibly passing or attempting to pass without paying toll.*

Her Majesty's mail and certain persons, &c., on H.M. service, to pass toll free.

V. Provided always, and be it further ordained, &c., that Her Majesty's mail, and persons, animals and carriages employed in the conveyance thereof, Her Majesty's officers and soldiers, being in proper staff or regimental or military uniform, dress or undress, and their horses (but not when passing in hired or private vehicles) and all carriages and animals belonging to Her Majesty or employed in her service, when conveying persons in such service or returning therefrom, and all recruits marching by route, shall pass toll-free through the said turnpike-gate.

See Tables.

Tolls and penalties how to be applied.

VI. And be it further ordained, &c., that the tolls collected and the penalties levied under the authority of this ordinance, shall be vested in the said trustees, and shall be employed and expended by them in keeping the said road in a state of good and efficient repair.

Table of tolls to be affixed at the gate.

VII. And be it further ordained, &c., that the said trustees shall cause a table of tolls exigible at the time being, to be legibly and plainly printed and affixed in a conspicuous position at the turnpike-gate.

Powers of the majority of trustees.

VIII. And be it further ordained, &c., that any majority of the said said trustees for the time being, shall and may have and exercise each and every power hereby vested in the said trustees.

IX. *Is the same as section 37 of 4 Vict. cap. 17, page 379.*

X. *Omitted.*—*This ordinance to be a public act.*

XI. *Omitted.*—*This ordinance to be permanent.*

8. BRIDGE OVER THE RIVER CAP ROUGE.

4 Vict. Cap. 21.

An Ordinance to declare and regulate the tolls to be taken on the Bridge over Cap Rouge River ; and for other purposes relative to the said bridge.

Preamble.

WHEREAS by a certain ordinance made and passed in the second year of Her Majesty's reign, and intituled, *An ordinance to provide for the completion of certain public works, for the improvement of the internal communications, and for the encouragement of agriculture, and for other purposes*, the sum of one thousand pounds currency, was appropriated to enable Her Majesty to purchase from the seignor of the seigniori of Cap Rouge, in the district of Quebec, the right of

toll over the river Cap Rouge, and a further sum of one thousand pounds, currency, to defray the expense of building a bridge over the said river ; and it was ordained and enacted, that the said right of toll and the said bridge when so purchased and built, should be vested in Her Majesty for the public uses of the Province ; and whereas by a certain other ordinance made and passed in the third year of Her Majesty's reign, a further sum of one hundred and eighty-five pounds, eight shillings, currency, was appropriated to defray the expense of building the said bridge ; and whereas the said sums have been expended, and the said right of toll hath been purchased, and a bridge built, according to the provisions of the said ordinances, near the mouth of the said river, and it is expedient to declare and regulate the tolls which shall be taken from the persons using the said bridge, and to provide means for keeping the said bridge in repair and renewing the same or any part thereof when necessary :—Be it therefore ordained and enacted, &c., that it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government of this Province, by an instrument under his hand and seal, to appoint three commissioners for carrying this ordinance into effect, and from time to time to remove them or any of them, and to appoint others in their stead : Provided always, that any majority of the said commissioners for the time being, shall have all the powers hereby vested in the said commissioners.

Commissioners to be appointed for the purposes of this ordinance.

See Tables.

II. *Omitted.*—*Certain tolls to be levied by the commissioners on carriages, &c., passing over the said bridge : Such tolls to be paid over (deducting expenses) to the trustees of the Quebec turnpike roads, appointed under 4 Vict., cap. 17, who may, with the approval of the Governor, &c., advance to the commissioners, from time to time, such sums as may be required for repairing or re-building the said bridge.*

III. Provided always, and be it further ordained, &c., that the said commissioners may commute the said tolls with any party having occasion frequently to pass or to pay toll for the passing of persons in the employ of such party over the said bridge, for such sum to be paid annually, monthly or weekly, as may be agreed upon between such party and the commissioners ; and the sums so paid shall be in lieu of the tolls commuted, for all the purposes of this ordinance.

Tolls may be commuted with any person.

See Tables.

IV. Provided also, and be it further ordained, &c., that Her Majesty's mail, and persons, animals and carriages employed in the conveyance thereof, Her Majesty's officers and soldiers, being in proper staff or regimental military uniform, dress or undress, and their horses, but not when passing in hired or private vehicles, and all carriages and animals belonging to Her Majesty, or employed in her service, when conveying persons in such service returning therefrom, and all recruits marching by route, shall pass toll free over the said bridge.

Certain exemptions from toll.

V. *Omitted.*—*The commissioners may, out of the tolls, defray current expenses, not exceeding £50 per annum ; and with the approval of the Governor, &c., they may expend a further sum in repairing or rebuilding the bridge, when necessary.*

VI. *Omitted.*—*Any carriage, &c., may be detained till the toll upon it be paid.*

VII. *Omitted.*—*Penalties for fast driving over the bridge, or for re-loading the swing-bridge.*

A table of the tolls, &c., to be affixed on the bridge.

VIII. And be it further ordained, &c., that it shall be the duty of the said commissioners to cause a copy of the preceding section of this ordinance, and a table of the tolls hereby established, to be fairly and legibly printed in French and English, and affixed in a conspicuous place on the said bridge.

IX. *Omitted.*—*Penalty on persons ferrying for hire within a certain distance of the bridge.*

X. *Omitted.*—*How the penalties are to be recovered and disposed of.*

XI. *Omitted.*—*Wilfully injuring the bridge to be a misdemeanor, unless the offence amount to a higher crime.—See tables.*

Monies to be accounted for.

XII. And be it further ordained, &c., that the said commissioners and the trustees to be appointed under the ordinance herein above cited, shall account to the Governor, Lieutenant-Governor, or person administering the government of this Province, in such manner and form, and at such times as he may appoint, for all monies by them received or expended under the authority of this ordinance.

The trustees under the ord. 4 Vict. c. 17, may be the commissioners. See that ordinance sect. 20.

XIII. Provided always, and be it further ordained, &c., that it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government of this Province, at any time, and whenever he shall deem it expedient, to appoint all the trustees appointed under the said ordinance, to be commissioners for carrying this ordinance into effect; any provision in this ordinance limiting the number of such commissioners to the contrary notwithstanding; and during the time the said trustees shall be such commissioners, the said bridge shall be held to be part of the roads and bridges under the control and management of the said trustees, as if it had been mentioned in the ninth section of the said ordinance, and the tolls authorized by this ordinance to be levied and taken from the persons using the said bridge, and collected during the said time, shall form part of the funds placed by the said ordinance at the disposal of the said trustees, and shall and may be applied by them in the same manner as the tolls levied under the authority of the said ordinance.

XIV. *Omitted.*—*This ordinance to be a public act.*

XV. *Omitted.*—*This ordinance to be permanent.*

9. BRIDGE OVER THE JACQUES CARTIER RIVER.

40 Geo. III. Cap. 6. Preamble.

An Act for erecting a Bridge over the River Jacques Cartier.

Governor may appoint three commissioners for the purposes of this act.

WHEREAS the river Jacques Cartier, from the violence and rapidity of the current, is sometimes impassable and at all times dangerous:—Be it therefore enacted, &c., that it shall and may be lawful to and for His Excellency the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being, by an instrument under his hand and seal at arms, to nominate and appoint three persons, for the purpose of erecting the bridge to be erected, in pursuance of this act, over the river Jacques Cartier, to remove from time to time the said persons or either of them, and to appoint others in the place and stead of such as shall be removed or shall die or resign their trust; and that the said persons to be so removed or shall die or resign their trust, shall be, and they are hereby constituted, commissioners for erecting the said bridge.

But see Tables.

Sections II to VI, inclusive, relate to the first erection of the bridge, and are effete.

VII. Omitted.—*Certain tolls established for repaying the money advanced, (£1,500, and £500 under '45 Geo. 3. cap. 7) ; and the said tolls voted in the Crown for ever for repaying the said sums, and the perpetual repairing and maintaining of the said bridge.*

VIII. Omitted.—*Penalty on ferrying for hire within a certain distance of the said bridge.*

Section IX empowered the grand-voyer to change the direction of the highway then leading to the ferry, and is effete.

X. And be it further enacted, that all the money to be levied by virtue of this act, and the several fines, forfeitures and penalties hereby imposed, shall be and the same are hereby granted and reserved to His Majesty, His Heirs and Successors for the public uses of this Province and the government thereof, in manner hereinbefore set forth and contained; and the due application of such monies, fines, forfeitures and penalties shall be accounted for to His Majesty, His Heirs and Successors, in such manner and form as they shall direct, through the lords commissioners of His Majesty's treasury for the time being.

Application of the fines.

XI. Omitted.—*This act to be a public act.*

An Act for applying certain sums of money therein mentioned, to complete the Bridge over the River Jacques Cartier, and to open and improve the Road leading towards the said Bridge.

45 Geo. III.
Cap. 7.

WHEREAS the sum of five hundred pounds current money of this Province, by Your Majesty's orders has been issued and advanced to the commissioners appointed by virtue of and under the authority of an act passed in the fortieth year of Your Majesty's reign, intituled, *An act for erecting a bridge over the river Jacques Cartier*:—May it therefore please Your Majesty that it may be enacted, &c., that out of the surplus, &c. (*Mere appropriation clause, making good the said sum of £500. Effete.*)

Preamble.

Act 40 Geo. 3.
c. 6.

III. And be it further enacted, &c., that it shall and may be lawful to and for the grand-voyer of the said district of Quebec for the time being, to compound, yearly and every year, with any person or persons living in the vicinity of the said bridge, for the tolls to be paid by such person or persons, his, her and their families, servants, horses and carriages, passing and repassing by the said bridge, and to agree for and receive from such person or persons, such sum and sums of money, as he, in his discretion, shall think a reasonable compensation for the probable amount of the tolls to be incurred and paid by such person or persons, his, her and their families, servants, horses and carriages, passing and repassing the said bridge, for and during the term of one year next ensuing from the time of making such composition as aforesaid.

Grand-voyer of Quebec empowered to compound for the tolls.

See Tables.

10. BRIDGE OVER THE RIVER CHAUDIÈRE.

An Act to appropriate a certain sum of money to the erection of a Bridge over the River Chaudière.

10 & 11 Geo.
IV. Cap. 41.

MOST GRACIOUS SOVEREIGN,

WHEREAS the passage of the river Chaudière is at all times attended with delay and difficulty, and at certain seasons with great

Preamble.

Governor to
appoint three
commissioners
for the pur-
poses of this
act.

See Tables.

danger, while it becomes at others altogether impracticable :—May it therefore please Your Majesty that it may be enacted, and be it enacted, &c., that it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government, to appoint three commissioners for the purpose of carrying this act into effect ; and from time to time to remove them or any of them, and to appoint others in their stead.

Sections II to VI, inclusive, relate to the first erection of the bridge and are effete.

VII. *Omitted.*—*Certain tolls to be paid on carriages, &c., passing over the bridge ; and such tolls vested in the Crown for the perpetual maintaining and repairing of the bridge.*

VIII. *Omitted.*—*Penalty for ferrying for hire within a certain distance of the bridge.*

Sections IX and X are mere appropriation clauses and effete.

Reservation of
the tolls, fines,
&c.

How to be ac-
counted for.

XI. And be it further enacted, &c., that all the money levied by virtue of this act, and the several fines, forfeitures and penalties hereby imposed, shall be and the same are hereby granted and reserved to His Majesty, His Heirs and Successors, and shall remain at the disposal of the provincial legislature for the public uses of the Province, in the manner hereinbefore set forth and contained ; and the due application thereof, and of all monies advanced under the authority of this act, shall be duly accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall be pleased to direct.

XII. *Omitted.*—*This act to be a public act.*

11. BRIDGE OVER THE RIVER STE. ANNE.

6 Will IV.
Cap. 41.

An Act to appropriate a certain sum of money for the construction of a Bridge over the River Saint Anne, in the County of Champlain.

MOST GRACIOUS SOVEREIGN,

Preamble.

* *Sic. Should
be " 10 & 11
Geo. 4.*

Governor to
appoint com-
missioners for
the purposes of
this act.

But see Tables.

WHEREAS, by an act passed in the second* year of the reign of His late Majesty King George the Fourth, chapter ten, the sum of seventy-five pounds, currency, was granted to procure plans and estimates for a bridge over the river *Sainte Anne de la Pêrade*, to be submitted to the three branches of the legislature of this Province ; and whereas such plans and estimates were accordingly laid before the three branches of the legislature, during the following session :—May it therefore please your Majesty, that it may be enacted, &c., that it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government of this Province, to appoint three commissioners to carry this act into effect, and from time to time to remove such commissioners, and appoint others in their stead.

Sections II and III relate to the first erection of the bridge, and appear to be effete.

IV. *Omitted.*—*Certain tolls to be levied on carriages, &c., passing over the said bridge ; and the said tolls vested in the Crown for ever, for the perpetual maintaining and repairing of the bridge.*

Section V provides for the expenses of the commissioners, and is ^{effde.}

VI. And be it further enacted, &c., that the said commissioners shall, within fifteen days after the opening of each session of the provincial parliament, lay before each branch of the legislature a detailed account of their proceedings under this act. Commissioners to lay a detailed account of their proceedings before the legislature.

Sections VII and X provided for accounts of the expenditure of the sums appropriated by the act, and appear to be effete.

VIII. *Omitted.*—Commissioners to appoint a toll-gatherer, who is to account on oath for the monies received.—See tables.

IX. *Omitted.*—If the inhabitants of the parish of St. Anne subscribe any sum towards the cost of the said bridge, the commissioners may compound with them for passing over the bridge.—See tables.

12. CHAMBLY CANAL.

An Act to grant an Aid to His Majesty, for the purpose of making a Navigable Canal, from or near the Town of Saint John, to the Basin of Chambly upon the River Sorel or Richelieu. 3 Geo. IV. Cap. 41.

WHEREAS it is expedient to adopt effectual measures for opening a navigable canal from or near the town of St. John on the river Sorel or Richelieu to the basin of Chambly on the said river, in the event that the company of proprietors by law heretofore thereunto authorized, shall not make and complete the same within the time limited by an act of the legislature of this Province, passed in the fifty-eighth year of the reign of His late Majesty George the Third, chapter eighteen, or shall have lost their right to do so, by not fulfilling the conditions imposed upon them by the said act, or shall have abandoned their right to make such canal, pursuant to such act :—Preamble.
Be it therefore enacted, &c., that in case the company of proprietors incorporated by the abovementioned act, &c., (58 Geo. 3. cap. 18,) shall not make and complete the same within the time by law prescribed, or shall have lost or relinquished their right so to do, the said canal shall be made and completed at the public expense, as in and by this act it is ordained and provided.

II. And be it further enacted, &c., that in any or either of the above mentioned cases it shall and may be lawful to and for the Governor, Lieutenant-Governor, or person administering the government of the Province for the time being, by an instrument under the great seal of the Province, to constitute and appoint such and so many persons as he may think fit, to be commissioners, and a secretary, to carry into execution and superintend the works necessary to make the said canal, with power to remove from time to time the said commissioners and secretary, and to appoint others in their stead, or in the stead of such as may, from time to time, die or resign. Governor empowered to appoint commissioners and a secretary, for the purposes of this act. See sect. III.

III. And be it further enacted, &c., that the said commissioners and their successors shall be and they are hereby declared to be a body corporate by the name of *The commissioners of the Chambly canal*, and as such shall have existence until the said canal shall be completed and no longer,—* and shall and may, as such body corporate, do all and whatsoever a body corporate legally may or can legally do; and service of any summons, order or rule of court, upon the secretary of the said com- Commissioners declared a body corporate.

missioners, in any action against the said corporation, shall be sufficient to compel the same to appear and defend such action in any court of competent jurisdiction: And the said commissioners shall annually submit in the English and French languages to the three branches of the legislature, an account of the monies by them expended under and in virtue of this act, accompanied with a statement of their operations pursuant to the same.

** The canal is now held by the Board of Works, (in whom it is vested under 4 & 5 Vict. cap. 38, section 17,) to be completed; and those sections which relate solely to the powers conferred on the commissioners for making and completing the canal, are therefore omitted, as are also those merely appropriating money for making it.—See tables.*

If the commander of the forces subscribes £10,000 towards the canal, King's boats to pass the canal free of toll.

VI. And be it further enacted &c., that if the commander of His Majesty's forces in this Province, shall, on the part of His Majesty's government, contribute and pay a sum of ten thousand pounds towards the making the said canal, in addition to the sums appropriated by this act, all boats, batteaux, lighters or vessels, laden with warlike or other stores belonging to His Majesty, His Heirs and Successors, shall and may at all times pass and repass through the said intended canal, without paying any toll or duty.

Parties restrained by law from selling their land, may receive a fixed annual rent, for which the canal and tolls shall be chargeable.

XIV. Provided always, and be it further enacted, &c., that any body politic, community, corporation or other person or persons whomsoever, who cannot, in common law, sell or alienate any land or lands set, laid out and ascertained to be necessary for the purposes of this act as aforesaid, shall and may agree upon and fix, as hereinafter directed, an annual rent, as an equivalent and not as a principal sum to be paid for the lands or ground necessary for the said canal and for other purposes relative thereto; for the payment of which annual rent, and every other annual rent for lands or grounds purchased for the said canal and other purposes relative thereto, the said canal and the tolls to be levied and collected thereupon, shall be and the same hereby are made liable and chargeable, in preference to all other claims and demands thereupon, whatsoever.

Agreements and determinations by arbitrations, and verdict and judgment, to be kept among the records of the court of K. B. at Montreal.

XIX. And be it further enacted, &c., that all agreements and all determinations by arbitration as aforesaid, and also the said verdicts and judgments thereupon, shall be transmitted to and shall be kept by the clerk of the court of King's bench for the district of Montreal, amongst the records of the said court, and shall be deemed and taken to be records of the said court, to all intents and purposes whatsoever; and the same or true and certified copies thereof, shall be allowed to be good evidence in all courts in this Province; and all persons shall have liberty to inspect the same, paying for such inspection the sum of one shilling, and to take copies thereof on paying for each copy not exceeding one hundred words, the sum of six pence, and so in proportion for a greater number of words.

Penalty on persons floating timber upon the canal, or otherwise obstructing it.

XXI. And be it further enacted, &c., that if any person or persons shall float any timber upon the said canal or shall suffer the loading of any boat, batteau or vessel, to lie over the sides thereof, or shall over-load any boat, batteau, vessel or raft, navigating in or upon the said canal, so as by the floating of such timber or over-loading, to obstruct the passage of any boat, batteau, vessel or raft, and shall not immediately upon due notice given to the owner or person having the charge or care of such boat, batteau, vessel or raft so obstructing the passage as aforesaid, remove the same, so as to leave a free passage, every person so offending shall forfeit and pay for every such offence the sum of five pounds, currency; and if any person

shall throw any ballast, gravel, stones or rubbish, into any part of the said canal, every person so offending, shall for every such offence incur a forfeiture and penalty not exceeding ten pounds,—one half of which forfeiture and penalty, and of all other penalties imposed by this act, shall go to the prosecutor or informer, and the other half to His Majesty, His Heirs and Successors, and shall be paid into the hands of the receiver general of this Province, and be applied for the public uses of the Province, and for the support of the government.

XXIII. And be it further enacted, &c., that whenever from floods or from unexpected accidents, the weirs, flood-gates, dams, banks, reservoirs, trenches or other works of the said canal, may be damaged or destroyed, and the adjacent lands or property thereby endangered or damaged, it shall be lawful, as well to prevent such danger or damage, as to repair the said canal, for the commissioners aforesaid from time to time and for their workmen and agents, without delay or interruption from any person or persons whatsoever, to enter into any land or lands adjoining to or near the said canal, branches or reservoirs or branches connected therewith or any of them (not being an orchard, garden or yard) and to dig for, work, get and carry away and use all such stones, gravel and other materials, as may be necessary or proper for the purposes aforesaid, without any previous treaty or agreement, with the owner or owners, occupier or occupiers, or any other person or persons interested in such lands or grounds or any of them, doing as little damage thereby as the nature of the works will admit of; the said commissioners making recompence for such damages, to the owners or occupiers of, or other person or persons concerned or interested therein, *à dire d'experts*, to be named by the said commissioners and by the parties concerned or interested, according to law.

In cases of unexpected accidents to the weirs, &c., the same how to be repaired.

But see Tables.

XXIV. And be it further enacted, &c., that if any person or persons shall wilfully, maliciously and to the prejudice of the said canal, break, throw down, damage or destroy any bank, lock, gate, sluice or any other work or works, machine or device to be erected or made in virtue of this act, or do any other wilful act, hurt or mischief, to disturb, hinder or prevent the carrying into execution and completing, supporting and maintaining the said canal, every such person or persons so offending, shall incur a forfeiture and penalty of treble the value of the damage proven by the oath of two or more credible witnesses to have been done; such damages, with the costs of suit, to be recovered in any courts of law in this Province, having competent jurisdiction; and in case of default by the offender or offenders to make immediate payment of the amount awarded, he or they may, at the discretion of the court before which the conviction shall have taken place, be committed to the common gaol for a term not exceeding one month.

Penalty on persons destroying any banks or other works of the canal.

See Tables.

XXV. And be it further enacted, &c., that the master or owner of any bateau, boat or other vessel or raft navigating upon the said canal, shall be and he is hereby made answerable for any damage, injury or mischief that shall be done by his boat, bateau or other vessel, or raft, or by any of the boatmen or water-men employed in and about the same respectively, to any of the bridges, weirs, locks, dams, engines or other works in, upon or near the said intended canal, or by loading or unloading any boat, bateau or other vessel or raft, and for any injury or damage that shall or may be done to the owners of any building or land adjoining the same; and the master or owner of such boat, bateau or other vessel or raft, shall and may be pro-

Masters of boats made answerable for damages done to any bridges, &c.

secuted for the same, in any court of record of competent jurisdiction; and if a verdict or judgment be given against him in such court, in any such case, the plaintiff shall recover his damages thereby sustained, with costs of suit.

Canal declared free for certain vessels, paying certain rates for wharfage.

XXVI. And be it further enacted, &c., that the said canal shall be free for all persons whomsoever, to navigate the same with any boat, barge, batteau or other vessel or raft, and to use the said towing paths for hauling and drawing boats, barges, batteaux and other vessels and rafts, and also to use the said wharves for loading and unloading any goods, wares and merchandize,—under such conditions and regulations, and upon payment of such tolls, rates and dues as shall or may hereafter be enacted or established by an act or acts of the legislature of this Province, so soon as adequate information, touching the tolls, rates or dues which it may be expedient to impose, can be obtained from the commissioners to be appointed in virtue of this act.

Nothing in this act to prevent persons, through whose land the canal may pass, to make or use wharves upon their own lands, &c.

XXVII. And be it further enacted, &c., that nothing in this act contained shall extend or be construed to extend, to restrain or hinder the owner or owners of any land or grounds through which the said canal shall pass, from making, erecting or using any wharves, quays, landing-places, cranes, weigh-beams or warehouses, in or upon their own lands, grounds or waters adjoining or near the said canal, or from landing any goods or merchandize or other things thereupon or upon the banks lying between the same and the said canal, or from making and using proper and convenient places for boats, batteaux, barges or other vessels or rafts to lie in,—so that the making, erecting or using thereof respectively, shall not encroach upon, obstruct or prejudice the navigation of the said canal or the towing paths thereof; and all sums of money which shall be paid for the use and benefit of the said wharves, quays, landing places, cranes, weigh-beams and warehouses, respectively, shall be and the same are hereby vested in the owner or owners of such lands or grounds who shall make and erect such wharves, quays, landing places, cranes, weigh-beams or warehouses respectively, his, her and their heirs and assigns,—so that the rates or dues to be granted for tonnage on the said canal, shall not thereby be reduced or altered.

Fines to be sued for within three months.

XXVIII. And be it further enacted, &c., that the fines, forfeitures and penalties which shall at any time be incurred under this act, shall be sued for within three months next after the commission of the offence, and not afterwards.

Not to affect His Majesty's rights, &c.

XXIX. And be it further enacted, &c., that nothing herein contained shall extend or be construed to extend in any manner or way to affect the rights of His Majesty, His Heirs or Successors, or of any person or persons, or of any body corporate or politic, except in as far as the same are hereby affected.

Public act.

XXX. And be it further enacted, &c., that the present act shall be deemed and taken to be a public act, and as such shall be judicially noticed by all judges, justices and other persons, without being specially pleaded.

Application of the money to be accounted for to the Crown.

XXXI. And be it further enacted, &c., that the due application of the monies appropriated under and in virtue of this act, shall be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall be pleased to direct.

An Ordinance to authorize the Commissioners for making the Canal from St. John's to Chambly, to borrow a certain sum of money to complete the said Canal. 2 Vict. (3.)
Cap. 61.

WHEREAS the sums heretofore appropriated for making and completing the canal from the town of Saint John's on the river Sorel or Richelieu, to the basin of Chambly, have been found insufficient for that purpose, and it is expedient to authorize the commissioners appointed under the act hereinafter mentioned, to borrow a sum of money for the purpose of completing the said canal:—Be it therefore ordained and enacted, &c., that the commissioners appointed or to be appointed under the authority of the act passed, &c., (3 Geo. 4. cap. 41,) shall be and are hereby authorized, for the purpose of carrying the said act and the other acts of the Provincial legislature relative to the said canal into effect, and of completing the same and all the works therewith connected, authorized by the said acts, and for no other purpose, to borrow a sum or sums of money not exceeding in the whole the sum of thirty thousand pounds currency, at the lowest rate of interest, (not exceeding in any case the legal rate of six per cent.) at which they may be able to obtain such sum or sums, which shall be payable or reimbursable, in whole or in part, eight years after the loan thereof shall have been made, at the option of the Governor, Lieutenant-Governor, or person administering the government of this Province, by warrant under his hand, and out of any unappropriated monies which shall then be in the hands of the receiver general: Provided always, that no more than fifteen thousand pounds shall be so borrowed as aforesaid, during the year ending on the tenth day of April, one thousand eight hundred and forty. Preamble.
Commissioners for the
Chambly canal authorized
to borrow
£30,000.
See Tables.
Proviso.

II. And be it further ordained and enacted, &c., that the interest which shall arise and become due upon any sum or sums of money borrowed under the authority of this ordinance, shall annually be paid under a warrant or warrants to that effect, to be directed by the Governor, Lieutenant-Governor, or person administering the government, to the receiver general, and out of any unappropriated monies then in the hands of that officer. The interest to
be paid annu-
ally by the re-
ceiver general

III. *Omitted.*—*The monies borrowed to be applied solely to the completion of the canal, and the balance to be paid to the receiver general for public uses: No money to be expended unless the work can be completed for the sum to be borrowed.*

IV. *Omitted.*—*The commissioners to report and account to the Governor, &c.*

V. And be it further ordained, &c., that the due application of the monies hereby appropriated, and of all monies expended under the authority of this ordinance, shall be accounted for to Her Majesty, Her Heirs and Successors, through the lords commissioners of the treasury, in such manner and form as Her Majesty, Her Heirs and Successors shall direct. Application of
the monies to
be accounted
for.

An Ordinance to amend and render permanent an Ordinance passed in the second year of Her Majesty's Reign, intituled, *An Ordinance to authorize the Commissioners for making the Canal from St. John's to Chambly, to borrow a certain sum of money to complete the said Canal.* 3 & 4 Vict.
Cap. 20.

WHEREAS it is expedient to alter, amend and render permanent, an ordinance, &c., (2 Vict. (3.) cap. 61,) be it, &c., that it shall be lawful Preamble.

Commissioners authorized to borrow £35,000.

The interest to be paid half yearly.

No loan at above 6 per cent. to be valid without the sanction of the Governor.

All monies arising from tolls, &c., to be paid to the receiver general.

How to be applied.

Proviso. For the voluntary redemption of debentures in certain cases.

for the commissioners now named and appointed, or hereafter to be named and appointed, to borrow a sum or sums of money not exceeding thirty-five thousand pounds, currency, for the purposes in the said ordinance mentioned, at such rate of interest (exceeding the legal rate of interest, if the loan of the said sum or sums of money cannot be otherwise effected,) as may be agreed upon, and payable within such period or periods as may also be agreed on, and not sooner, without the consent of the lender or lenders of such sum or sums of money, and subject nevertheless to the payment of the interest on such loans, half yearly.

II. Provided always, and be it further ordained and enacted, &c., that no contract or obligation for the loan of money, for the purposes aforesaid, to bear interest at any rate greater than six per cent, shall be valid without the sanction and confirmation of the Governor, Lieutenant-Governor, or person administering the government, signified through his secretary.

III. Provided also, and be it further ordained and enacted, &c., that all monies arising from any rates, tolls, duties, income or revenue of any kind to be levied or collected on or for the use of the said canal, shall be paid, by the person or persons who shall receive such monies, into the hands of the receiver general of this Province, and being so paid, shall be and are hereby specially appropriated to the payment of the principal and interest of each and every sum of money borrowed by the said commissioners under the authority of this ordinance or of the ordinance hereby amended, and of the necessary expense of repairing and maintaining the said canal and of collecting the said monies; nor shall any part thereof be paid for, or appropriated to any other purpose whatsoever, until the said principal and interest be wholly paid and discharged: Provided further, that if at any time before any sum or sums so borrowed as aforesaid and then unpaid, shall be redeemable, it shall happen that the monies hereby appropriated to the payment of the principal and interest thereof, then in the hands of the receiver general, shall be more than sufficient for the purposes for which they are hereby appropriated, it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government for the time being, to pay off any part of the said principal, which any party to whom the same may be due shall be willing to receive, and by warrant under his hand to authorize the receiver general to pay to such party, and out of the monies hereby appropriated, such sum (whether greater or less than the amount of the principal so to be paid off) as such party may be willing to receive in payment of such principal, any thing in the said ordinance to the contrary notwithstanding.

IV. *Omitted.—This ordinance to be permanent.*

13. LACHINE CANAL.

1 Geo. IV.
Cap. 6.

An Act for making a Navigable Canal, from the neighbourhood of Montreal to the Parish of Lachine, and to appropriate a certain sum of money for that purpose, and to repeal a certain Act therein mentioned.

Preamble.

If the company incorporated

WHEREAS it is expedient to adopt effectual measures for opening a navigable canal from the neighbourhood of Montreal to Lachine, in the event that the company of proprietors by law thereunto authorized, shall

not make and complete the same within the period prescribed by an act passed by the legislature of this Province, in the fifty-ninth year of the reign of His late Majesty George the Third, chapter sixth, or shall have lost their right so to do, by not fulfilling the conditions which are imposed on them by the said act, or shall have abandoned their right to make such canal pursuant to such act:—Be it therefore enacted, &c. (*This section merely appropriated money to make the said canal if the company should not do so,—and is effete.*)

II. And be it further enacted, &c., that if the commander of His Majesty's forces in this Province, shall, on the part of His Majesty's government, contribute and pay a sum of ten thousand pounds, currency, or more, towards the making the said canal, in addition to the sums hereinabove appropriated, all boats, bateaux, lighters or vessels, laden with warlike or other stores belonging to His Majesty, His Heirs and Successors, shall and may at all times pass and repass through the said intended canal, without paying any toll or duty whatsoever.

II. Provided always, and be it further enacted, &c., that any body politic, community, corporation or other person or persons whomsoever, who cannot, in common course of law, sell or alienate any lands set out and ascertained as aforesaid, shall and may agree upon and fix, as hereinafter directed, an annual rent, as an equivalent and not as a principal sum to be paid for the lands or ground necessary for the said canal and other purposes relative thereto; for the payment of which annual rent, and every other annual rent for lands or grounds purchased for the said canal, and other purposes relative thereto, the said canal and the tolls to be levied and collected thereon, shall be and hereby are made liable and chargeable in preference to all other claims and demands thereon whatsoever.

XII. And be it further enacted, &c., that for the public convenience and of the several proprietors through whose lands the said canal shall pass, the said commissioners shall construct bridges across the said canal from place to place, not further from each other than the distance of thirty *arpents*.

XVI. And be it further enacted, &c., that all agreements and all determinations by arbitration as aforesaid, and also the said verdicts and judgments thereupon, shall be transmitted to and shall be kept by the clerk of the court of King's bench for the district of Montreal, amongst the records of the said court, and shall be deemed and taken to be records of the said court to all intents and purposes; and the same or true copies thereof, shall be allowed to be good evidence in all courts in this Province, and all persons shall have liberty to inspect the same, paying for each inspection the sum of one shilling, and to take copies thereof on paying for each copy not exceeding one hundred words, the sum of six pence, and so in proportion for any greater number of words.

XVIII. And be it further enacted, &c., that if any person shall float any timber upon the said canal, or shall suffer the loading of any boat, bateau or vessel to lie over the sides thereof, or shall over-load any boat, bateau, vessel or raft, navigating in or upon the said canal, so as by such over-loading to obstruct the passing of any other boat, bateau, vessel or raft, and shall not immediately upon due notice given to the owner or person having the care of such boat, bateau, vessel or raft so obstructing the passage as aforesaid, remove the same, so as to make a free passage, every person so offending shall forfeit and pay for every such offence the sum of

Appropriation
of penalties.

five pounds, currency; and if any person shall throw any ballast, gravel, stones or rubbish, into any part of the said canal, every person so offending, shall for every such offence incur a forfeiture and penalty not exceeding ten pounds currency; one half of which forfeiture and penalty, and of all other penalties imposed by this act, shall go to the prosecutor or informer, and the other half to His Majesty, His Heirs and Successors, and shall be paid into the hands of the receiver general, and be applied for the public uses of this Province and the support of the government thereof.

In cases of un-
expected acci-
dent to the
weirs, &c., the
same how to
be repaired.

But see Tables.

XX. And whereas it may hereafter happen, from floods or from some unexpected accidents, that weirs, flood-gates, dams, banks, reservoirs, trenches or other works of the said canal, may be damaged or destroyed, and the adjacent lands or property thereon, thereby damaged, and that it may be necessary that the same should be immediately repaired or rebuilt, to prevent further damages:—Be it therefore enacted, &c., that when and as often as such case may happen, it shall be lawful for the aforesaid commissioners, from time to time, and for their workmen and agents, without any delay or interruption from any person or persons whomsoever, to enter into any lands or grounds adjoining or near to the said intended canal or branches, reservoirs or branches connected therewith, or any of them, (not being an orchard, garden or yard,) and to dig for, work, get and carry away and use all such stones, gravel and other materials, as may be necessary or proper for the purposes aforesaid, without any previous treaty whatsoever with the owner or owners, occupier or occupiers of, or other person or persons interested in such lands or grounds, or any of them, doing as little damage thereby as the nature of the works will admit of, the said commissioners making recompense for such damages, to the owners or occupiers of, or other persons interested in such lands or grounds, *à dire d'experts* to be named by the commissioners and by the parties concerned, according to law.

Penalty on per-
sons destroy-
ing any banks
or other works
of the canal.

See Tables.

XXI. And be it further enacted, &c., that if any person or persons shall wilfully, maliciously and to the prejudice of the said canal, break, throw down, damage or destroy any bank, lock, gate, sluice or any other work or works, machine or device to be erected or made in virtue of this act, or do any other wilful act, hurt or mischief to disturb, hinder or prevent the carrying into execution and completing, supporting and maintaining the said canal, every such person or persons so offending, shall incur a forfeiture and penalty of treble the value of the damage proved by oath of two or more credible witnesses to have been done; such damages together with costs of suit, to be recovered in any court of law in this Province, having competent jurisdiction; and in case of default by the offender or offenders to make immediate payment of the amount awarded, he or they may, at the discretion of the court before which the conviction shall have taken place, be committed to the common gaol for a term not exceeding one month.

Masters of
boats made an-
swerable for
damages done
to any bridges,
&c.,

See Tables.

XXII. And be it further enacted, &c., that the master or owner of any batteau, boat or other vessel or raft navigating upon the said canal, shall be and he is hereby made answerable for any damage, spoil or mischief that shall be done by his boat, batteau or other vessel or raft, or by any of the boatmen or watermen employed in and about the same respectively, unto any of the bridges, weirs, locks, dams, engines or other works in, upon or near the said intended canal, or by loading or unloading any boat, batteau or other vessel or raft, and for any injury or damage that shall or may be done to the owners of any building or land adjoining the same; and the

master or owner of such boat, batteau or other vessel or raft, shall and may be prosecuted for the same, in any court of record; and if a verdict or judgment be given against him in such court, in any such case, the plaintiff shall recover his damages thereby sustained, with double costs of suit. Double costs.

XXIII. And be it further enacted, &c., that the said canal, shall be free for all persons whomsoever, who are hereby authorized and empowered to navigate freely upon the same, with any boat, barge or other vessel, and to use the said towing paths for hauling and drawing boats, barges and other vessels, and also to use the said wharves for loading and unloading any goods, wares and merchandize, under such conditions and regulations, and upon payment of such rates and dues, as shall or may hereafter be enacted by an act of the legislature of this Province of Lower-Canada, so soon as adequate information, touching the premises, shall be obtained from the commissioners to be appointed as aforesaid. Canal declared free for certain vessels paying certain rates for wharfage.
The rates.

XXIV. And be it further enacted, &c., that nothing in this act shall extend or be construed to extend, to restrain or hinder the owner or owners of any lands or grounds through which the said canal shall pass, from making, erecting or using any wharves, quays, landing-places, cranes, weigh-beams or warehouses in or upon their own lands, grounds or waters adjoining or near to the said canal, or from landing any goods or merchandize or other things thereupon or upon the banks lying between the same and the said canal, or from making or using proper and convenient places for boats, barges or other vessels to be in, so that the making, erecting or using thereof respectively, shall not encroach upon, obstruct or prejudice the navigation of the said canal or the towing paths thereof; and all sums of money which shall be paid for the use and benefit of the said wharves, quays, landing-places, cranes, weigh-beams and warehouses, respectively, shall be and the same are hereby vested in the owner or owners of such lands or grounds who shall make and erect such wharves, quays, landing-places, cranes, weigh-beams or warehouses respectively, his, her, and their heirs and assigns, so that the rates or dues to be granted for tonnage on the said canal, shall not be thereby reduced or altered. Nothing in this act to prevent persons, through whose land the canal may pass, to make or use wharves upon their own lands, &c.

XXVII. And be it further enacted, &c., that the fines, forfeitures and penalties which shall be at any time incurred under this act, shall be sued for within three months next after the commission of the offence, and not afterwards. Fines to be sued for within three months.

XXVIII. And be it further enacted, &c., that nothing herein contained shall extend or be construed to extend in any manner or way to affect the rights of His Majesty, His Heirs and Successors, or of any person or persons, or of any body corporate or politic, except in as far as the same are hereby affected. Not to affect His Majesty's rights, &c.

XXIX. And be it further enacted, &c., that the present act shall be deemed and taken to be a public act, and as such shall be judicially noticed by all judges, justices and other persons, without being specially pleaded. Public act.

An Act to alter and diminish certain Rates and Tolls of the Lachine Canal, for a limited time, and for other purposes. 6 Geo. IV.
Cap. 3.

WHEREAS it is expedient to reduce certain of the rates, tolls and duties by law existing and authorized to be demanded upon vessels, boats, merchandize and effects passing upon the Lachine canal, and to make Preamble.

further provisions with respect to the said canal :—Be it therefore enacted, &c., that the third clause or section of an act, &c. (*This section is effete. See tables.*)

The commissioners, where the Province is bound to make fences, may agree with the proprietors for an indemnity.

II. And be it further enacted, &c., that it shall be lawful for the commissioners for the Lachine canal, in all cases where the Province ought by law or in equity to bear the charge of making, maintaining or keeping in repair any fence or fences along the said canal, to transact with the several proprietors of the land upon which such fence or fences are, or with his or their lawful representative, and to allow such fair and reasonable indemnity to such proprietor or proprietors as may be equivalent to the charge and trouble of making, maintaining and keeping in repair such fence or fences, for all times to come, and the transaction being concluded by act before a notary, an authentic copy of the act shall, by the commissioners be transmitted to, filed with and preserved by the clerk of the court of King's bench at Montreal, for the purposes as by law it is already provided, with respect to other agreements and papers relating to the said canal.

But see Tables.

4 Will. IV.
Cap. 12.

An Act to provide for the making of certain improvements about the Lachine Canal.

MOST GRACIOUS SOVEREIGN,

Preamble.

The commissioners may enlarge the tunnel or make a new tunnel, to carry off the superfluous waters, &c. of the canal.

WHEREAS it is expedient to authorize the commissioners of the Lachine canal to perform certain work and to acquire certain property hereinafter mentioned, and to provide the means of defraying the expense of performing such work and the cost of such property :—May it therefore please Your Majesty that it may be enacted, and be it enacted, &c., that it shall be lawful for the said commissioners of the Lachine canal to cause the tunnel which conveys the waters of the Little River St. Pierre under the said canal, to be so enlarged or a new tunnel to be constructed, so as to carry off the whole of the superfluous waters and leakage of the said canal, even if the latter should be enlarged to twice its present size, and to cause all such other work to be performed, as may be necessary to accomplish the said purpose.

Commissioners may acquire and hold certain pieces of ground for the use of the said canal.

II. And be it further enacted, &c., that it shall be lawful for the said commissioners of the Lachine canal to acquire, purchase and hold, in their said quality and for the uses of the said canal, a piece of ground not exceeding in any place forty feet in width, adjacent to the ground already held by them in their said quality on the north bank of the said canal, and extending along the said bank from Prince Street in Griffin Town to the stone store belonging to Messrs. Molson & Davis, adjoining the bridge over the said canal on the lower Lachine road, and another piece of ground not exceeding in any place forty feet in width, adjacent to the ground so held by them as aforesaid on the south bank of the said canal, and extending along the said bank from the river Saint Lawrence to the said bridge on the lower Lachine road, or such less quantity of ground situate as aforesaid, as the said commissioners shall think it expedient to acquire for the said purpose.

Commissioners may pay the expenses out of monies received by them.

III. And be it further enacted, &c., that it shall be lawful for the said commissioners of the Lachine canal, out of any sum by them received or collected, or to be received or collected, in their said quality, to pay such sums as may be necessary to defray any expenses by them incurred in carrying this act into effect.

An Act to provide for the management and care of the Lachine Canal, and to establish certain rates, tolls and duties to be taken thereon. 6 WILL. IV.
Cap. 22.

WHEREAS it is expedient to make provision for the management, care and repair of the Lachine canal, and to establish tolls to be taken thereon :—Be it therefore enacted, &c., that it shall and may be lawful for the Governor, Lieutenant-Governor, or person administering the government of the said Province for the time being, by an instrument under the great seal of the said Province, to constitute and appoint, from time to time, for a period not exceeding three years, five commissioners for superintending, preserving and keeping in repair the said canal, and such commissioners from time to time to remove, and others to appoint in the room and stead of such as may be so removed, or of such as may from time to time die or resign ; and also to appoint in like manner a fit and proper person to be secretary, treasurer and toll-collector to the said commissioners, and from time to time to remove the said secretary, treasurer and toll-collector, and to appoint another in his stead : Provided always, that the said commissioners shall not be entitled to, or receive any remuneration for their services in that capacity. Preamble.
Governor to appoint commissioners and other officers under this act.
See Tables.
Proviso.

II. And be it further enacted, &c., that the said commissioners and their successors to be appointed as aforesaid, shall be, and they are hereby declared to be a body corporate, under the name of *The Commissioners of the Lachine Canal*, and shall and may, as such body corporate, do all and whatsoever a body corporate legally may do, in and about the superintending, preserving, and keeping in repair the said canal ; and service of any summons upon the secretary of the said commissioners in any action against them, as such corporate body, shall be sufficient to compel them to appear accordingly and defend such action, in any court of competent jurisdiction. Commissioners declared a body corporate.
Their duties.

III. And be it further enacted, &c., that it shall be lawful for the said commissioners to employ such lock-keepers or other assistants or servants as they shall from time to time deem necessary for the due execution of the trust committed to them, and to allow such remuneration to the said lock-keepers, assistants or servants, as shall to the said commissioners appear reasonable. Commissioners to employ lock keepers and other servants.

IV. And be it further enacted, &c., that from and after the passing of this act, the several rates, tolls, and duties hereinafter mentioned, shall be demanded for, and payable upon all boats, barges, vessels, rafts of lumber, passengers, merchandize or effects, passing through or upon the said canal, that is to say :— Rates of tolls and duties payable on boats, &c.

For each boat, barge, scow or vessel of five tons measurement or under, six shillings and three pence, currency ; The tolls.

Between five and twenty tons measurement, eight shillings and nine pence, currency ;

Between twenty and sixty tons measurement, twelve shillings and six pence, currency ;

Between sixty and eighty tons measurement, fifteen shillings, currency ; above eighty tons measurement, twenty shillings, currency ;

For each cord of fire-wood, six pence, currency ;

For each ton of timber, three pence, currency ;

For each ton of merchandize or liquors, one shilling and nine pence, currency ;

For each barrel of pot or pearl ashes, five pence, currency ;
 For each barrel of pork or beef, three pence, currency ;
 For each tierce of flour or rice, four pence, currency ;
 For each barrel of flour or rice, two pence, currency ;
 For each half-barrel of flour or rice, one penny, currency ;
 For each bushel of wheat or other grain, three farthings, currency ;
 For each adult person, not being one of the crew of any raft, boat, barge, scow, or other vessel passing on the said canal, six pence, currency ;
 For each child under twelve years of age, three pence, currency ;
 For each horse, mare, ass, mule, bull, ox, cow, or other horned or neat cattle, per head, six pence, currency ;
 For each hog, goat, sheep, lamb, calf, or dog, one penny and a half, currency ;
 For each toise of stone or brick, two shillings and six pence, currency ;
 For each hogshead of lime or sand, three pence, currency ;
 For each thousand of shingles, three pence, currency ;
 For each thousand of standard pipe staves, fifteen shillings, currency ;
 For each barrel of butter, lard or grease, three pence, currency ;
 For each ton of salt, nine pence, currency ;
 For each hundred bundles of hay, one shilling, currency ;

Which said rates shall be paid for the whole distance between Lachine and Montreal, in ascending or descending the said canal, and so in proportion for each and every mile of the said distance, that any such raft, boat, barge, scow or other vessel, or passengers, merchandize or effects aforesaid, may pass or be conveyed upon the said canal.

Fractions how
to be computed.

V. Provided always, and be it further enacted, &c., that in all cases where there shall be a fraction of a mile in the distance which any raft, boat, barge, scow or other vessel, or any passenger, merchandize or effects shall have gone or passed upon the said canal, such fraction shall, in respect to the rates aforesaid, be deemed to be a whole mile ; and that in all cases where there shall be a fraction of a ton in the measurement of any boat, barge, scow or other vessel or effects so to be navigated or conveyed upon the said canal, a proportion of the said rates shall be demanded and taken for such fraction, according to the number of quarters of a ton contained therein ; and in all cases where there shall be a fraction of a quarter of a ton in any such measurement as aforesaid, such fraction shall be deemed and considered as a whole quarter of a ton ; and in all cases where timber, boards, plank, and scantling in rafts shall pass upon or through the said canal, the aforesaid rates and dues thereon shall be calculated in proportion to the quantity of feet, but no quantity under twenty-five feet thereof shall pay less than the proportion which may be charged for any twenty-five feet of such timber, boards, plank and scantling as aforesaid.

Boats loading
or unloading
below lock
No. 4.

VI. And provided also, and be it enacted, &c., that all boats, barges, scows, vessels or rafts loading or unloading below the lock *number four*, of the said canal, whether in ascending or descending the same, shall pay the like tolls as if they passed through all the locks of the said canal.

Boats lying
longer than
forty-eight
hours on the
banks of the
canal, to pay
an extra toll.

VII. And provided further, and be it enacted, &c., that every boat, scow or other vessel, which shall remain, either loaded or empty, in or upon the said canal, longer than forty-eight hours after commencing to discharge or take in her cargo, and all merchandize and other effects forming or to form any part of such cargo, which shall be suffered to remain upon any bank or banks, or upon any wharf or wharves of the said canal longer than

forty eight hours, shall be liable to and shall pay an additional or extra-toll, as for one mile upon the said canal, for every day which the same shall remain after the expiration of the time hereby limited; and every fraction of a day shall be reckoned a whole day: Provided always, that nothing in this clause contained, shall extend to empty boats or other vessels, properly moored and fastened in the basins or other parts of the said canal appropriated to their use, when not employed in loading or unloading. Provide.

VIII. And be it further enacted, &c., that from and after the passing of this act, no raft of firewood shall be admitted into the said canal. No raft of firewood to be admitted.

IX. And be it further enacted, &c., that no firewood or staves shall be landed upon any bank or wharf of the said canal, except only upon such part or parts thereof and under such regulations, as shall be from time to time appointed and established by the commissioners of the said canal; and all firewood and staves shall be removed from such bank or wharf within forty-eight hours after the unloading thereof shall have commenced; and for every hour which such firewood or staves shall be permitted or suffered to remain upon any bank or wharf of the said canal beyond the time hereby limited, there shall be paid an additional rate or toll, equal to the rate or toll which such firewood or staves would be subject to for one mile on the said canal; or, if after the expiration of the time hereby limited, the owner or person in charge of such firewood or staves, shall refuse or neglect to remove the same immediately on being requested so to do, or if such firewood or staves shall be left without any person being upon the spot in charge thereof, then and in every such case, the said commissioners may, if they see fit, cause the same to be removed, and may detain the same until all the toll, extra-toll, expenses of removal, and expenses incident to such removal shall be paid; and such toll, extra-toll, and expenses may be recovered in like manner as other rates, tolls and duties imposed by this act, are appointed to be recovered. No firewood or staves to be landed on the banks of the said canal, but under certain regulations.

Penalty for neglect of complying with the same.

X. And be it further enacted, &c., that in all cases where any boat, barge, scow or other vessel, shall, instead of passing through the said canal to the port of Montreal, have descended through the rapids of the river St. Lawrence to the said port or lower down the said river, such boat, barge, scow or other vessel, and all merchandize and effects therein laden, shall, in ascending the said canal, be subject to, and shall pay one-third more than the rates, tolls and duties by this act imposed upon the same respectively. Boats coming down the rapids laden, shall, on returning through the canal, pay one-third more toll.

XI. And be it further enacted, &c., that the master, owner, manager, consignee, or agent of every boat, barge, scow or other vessel navigating upon the said canal, shall, if thereto required, give a just account or manifest in writing, to the collectors or sub-collectors of the rates, tolls and duties upon the said canal, at the place or places where they shall attend for that purpose, of what quantity of merchandize, effects and articles shall be in such boat, barge, scow or other vessel, with the exact draught of water of such boat, barge, scow or other vessel, specifying the quantities and numbers liable to the payment of such toll; and in case of neglect or refusal to give such account or manifest, or in case a false account or manifest shall be given, every person so offending shall forfeit and pay to the said commissioners, double the amount of the respective rates, tolls and duties which shall be payable for the same; and in case of neglect, refusal or denial of payment, on demand, of such forfeiture or forfeitures, or any part hereof, to the said commissioners, the same shall be recovered and levied. Masters, &c., of boats to give a just account or manifest to the collector, &c., of the quantity of goods contained in such boats, &c.

Penalty.

How recoverable.

Duty of the collector, &c., in cases in which he shall suspect the correctness of the account.

in such manner and by such method as the said rates, tolls and duties are by this act directed and appointed to be levied ; and in case any collector or sub-collector of the rates, tolls and duties upon the said canal, shall see good reason to doubt the correctness of such account or manifest, he is hereby empowered to cause the boat, barge, scow or other vessel mentioned in the said account or manifest, to be unloaded and examined ; and if the said account or manifest shall be found to be incorrect, the expense of unloading and reloading shall be paid by the master, owner, manager, consignee or agent of such boat, barge, scow or other vessel, and shall be recovered and levied in such manner and by such methods, as the said rates, tolls and duties are by this act directed and appointed to be levied ; and if the said account or manifest shall be found to be correct, the expense of unloading and re-loading shall be paid by the said commissioners.

The rates to be paid to such persons &c. as may be appointed by the commissioners for that purpose.

XII. And be it further enacted, &c., that the several rates, tolls and duties by this act imposed, shall be paid to such person or persons, and at such place or places near to the said canal, and in such manner, and under such regulations, as the said commissioners shall direct and appoint ; and in case of denial or neglect of payment of any such rates, tolls or duties, or any part thereof, on demand, to the person or persons appointed to receive the same as aforesaid, the said commissioners may sue for and recover the same in any court having competent jurisdiction,—or the person or persons appointed as aforesaid, to receive the said rates, tolls and duties, may, and he and they, is and are hereby empowered to seize any boat, barge, scow or other vessel or raft, merchandize or effects, for or in respect whereof such rates, tolls or duties ought to be paid, and to detain the same until payment thereof.

Certain times fixed when boats descending are to load.

XIII. And be it further enacted, &c., that no boats, barges, scows, or other vessels descending the said canal, shall commence unloading at any part of the said canal below lock *number four*, until they shall have reported their arrival and delivered their permits to the collector or sub-collectors of the rates, tolls and duties on the said canal, stationed at lock *number five* of the said canal, under a penalty of forty shillings, currency, to be recovered in like manner as other rates, tolls and duties aforesaid are recovered, by this act.

Boats, &c., doing damage to the canal, may be detained until the damage is repaired or security given to pay the amount awarded, with costs.

XIV. And be it further enacted, &c., that if any injury shall be done to the said canal, or to any of the bridges, weirs, locks, dams, fences or other works, in, upon, or near the same, by any boat, barge, scow or other vessel or raft passing or being conveyed thereon, or by any of the crew or persons belonging to, or on board of such boat, barge, scow, vessel or raft, it shall and may be lawful for the said commissioners, or for any of the persons employed by or under them as aforesaid, to seize and detain such boat, barge, scow, vessel or raft, until the injury so done shall have been repaired by the crew or persons belonging to or on board of the same, or until written security shall have been given by the owner, manager, conductor, consignee, or agent of such boat, barge, scow, vessel, or raft, to the satisfaction of one of the said commissioners, to pay such amount as shall be awarded, with costs, by the judgment of any court of competent jurisdiction, in a suit or action to be brought by the said commissioners, by reason of such injury : Provided always, that when the amount of the damage or penalty sued for by the said commissioners, shall not exceed five pounds, currency, the same may be sued for and recovered upon the oath of one or more credible wit-

Damage under £5 recoverable before two justices.

nesses, before any justice of the peace; any law, usage, or custom to the contrary notwithstanding: And provided always, that if it should be proved, that such detention was unnecessary, the said commissioners shall be responsible for such damages as shall be proved to have been occasioned thereby, and the amount of such damages shall be sued for and recovered in any court of competent jurisdiction.

XV. And be it further enacted, &c., that it shall and may be lawful for the said commissioners from time to time to appropriate such part or parts of the canal ground as they shall see fit, to the purposes of building and repairing boats, barges, scows or other vessels used in or intended for the navigation of the said canal, and to let the same by public auction, for any period not exceeding twelve months, at and for such rent as shall be agreed upon; and every person who shall build or repair, or shall haul up from, or launch into the said canal, any boat, barge, scow or other vessel, at any place within the said canal ground, other than such as shall be so appropriated for that purpose, without the special permission in writing of the said commissioners, shall for each offence forfeit and pay the sum of five pounds, currency, and shall also pay the rates, tolls and duties hereinafter imposed upon boats, barges, scows and other vessels built or repaired within the said canal ground; the said forfeiture and penalty recoverable in like manner as the rates, tolls and duties imposed by this act are recoverable.

XVI. And be it further enacted, &c., that for every boat, barge, scow or other vessel of ten tons measurement and under, which shall be built within the said canal ground, there shall be paid the sum of twenty shillings, currency, and for every ten tons over and above ten, there shall be paid an additional sum of two shillings and six pence, currency; Provided always, that the building of such boat, barge, scow or other vessel shall not occupy more than ten days; and if the same shall occupy more than ten days, then and in that case there shall be paid an additional sum of two shillings and six pence, currency, for every ten tons, for each day exceeding ten days; and a fraction of a day shall be reckoned a whole day:—and for every boat, barge, scow or other vessel of ten tons measurement and under, which shall be repaired within the said canal ground, there shall be paid the sum of ten shillings, currency, and for every ten tons over and above ten, there shall be paid an additional sum of one shilling and three pence, currency; Provided always, that the time occupied in such repairs shall not exceed three days, and if it shall exceed three days, then and in that case there shall be paid an additional sum of one shilling and three pence, currency, for every ten tons, for each day exceeding three days; and a fraction of a day shall be reckoned a whole day:—which said rates and dues imposed by this section shall be recovered in like manner as the rates, tolls and duties imposed by this act are appointed to be recovered.

XVII. And be it further enacted, &c., that no boat, barge, scow or other vessel shall winter in the canal or within the canal ground, without the permission in writing of the said commissioners, and the payment of the following rates and dues, namely:—

For each boat, barge, scow or other vessel of ten tons measurement and under, ten shillings, currency, and for every ten tons above ten, one shilling and three pence, currency, additional.

XVIII. And be it further enacted, &c., that from and after the passing of this act, no vessel from sea, steam vessel, river craft, barge, boat, scow

Commissioners liable to damages for unnecessary detention.

Commissioners may appropriate any part of the canal ground, for the purpose of repairing boats, &c.

Rates to be paid for every boat built on the canal ground. Proviso.

Proviso.

Boats, &c. wintering within the canal ground, to pay certain rates.

No vessel from sea, &c. not

having descended the canal to enter the same, without leave of the commissioners and payment of certain dues.

See Tables.

or other vessel, not having descended or not being about to ascend the canal, shall enter into the said canal below lock *number seven*, commonly called *the river lock*, or shall land any merchandize or other articles, or any passengers, upon the canal, wharf or wharves below the said lock *number seven*, under a penalty of ten pounds, currency, for each offence, unless with the special permission of the commissioners in writing, and upon the performance of such conditions, and upon payment of such tolls and dues as are levyable in the port of Montreal, and any thing in this act contained to the contrary notwithstanding; one-half of which forfeiture and penalty shall go to the prosecutor or informer, and the other half to the said commissioners, as part of the revenue of the said canal, and to be accounted for as such.

Penalties imposed by this act, how to be sued for and recovered.

See Tables.

XIX. And be it further enacted, &c., that all penalties, fines and forfeitures imposed by this act, may be sued for and recovered by the said commissioners, on the oath of one credible witness, before any one justice of the peace, who on the conviction of the offender, shall, if such penalty, fine or forfeiture be not forthwith paid, commit such offender to the common gaol for the district of Montreal, for a period not exceeding eight days, or until such penalty, fine or forfeiture be paid; and all penalties, fines or forfeitures so recovered shall be considered as forming part of the revenue of the said canal, and shall be paid to and accounted for by the commissioners as such, excepting always such, the one-half whereof it is hereinbefore provided shall be paid to the prosecutor or informer.

Tolls to be paid over quarterly to the receiver general and to remain at the disposal of the legislature.

XX. And be it further enacted, &c., that the several rates, tolls and duties by this act imposed, shall be paid over quarterly to the receiver general of this Province, after deducting thereout the salary of the secretary, treasurer and toll collector, and the wages of the persons to be employed by the said commissioners as aforesaid, and all other necessary expenses incurred by the said commissioners in superintending, preserving and repairing the said canal, and shall remain for the future disposition of the legislature, and be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall be pleased to direct.

Salaries allowed to the secretary, treasurer, and toll-collector.

XXI. And be it further enacted, &c., that there shall be allowed to the secretary, treasurer and toll-collector, a sum of two hundred pounds, currency, annually, for his services respecting the execution of this act, and no further or other sum for or in respect of the same; and that the said sum shall in each and every year, be taken out of the monies to be levied by virtue of this act.

Secretary, &c. to give security.

XXII. And be it further enacted, &c., that before entering upon the discharge of the duties of his office, the said secretary, treasurer and toll-collector, shall, before one of the justices of His Majesty's court of King's bench for the district of Montreal, enter in a bond to His Majesty, His Heirs and Successors, in a sum of five hundred pounds, currency, with two good and sufficient securities to the satisfaction of the said commissioners, in a sum of two hundred and fifty pounds each, conditioned for the due and faithful performance, by the said secretary, treasurer and toll-collector, of all and every the duties required of him by virtue of this act.

Commissioners to account

XXIII. And be it further enacted, &c., that the said commissioners shall annually submit to the three branches of the legislature, within the first

fifteen days after the opening of each session of the provincial parliament, a detailed and particular account of the monies received and expended under and by virtue of this act, and of the boats, barges, vessels and rafts, persons and effects, upon which tolls shall have been levied during the preceding year, as well as what are exempted from payment of tolls, as belonging to the military department, together with a statement of their proceedings in the execution of their duties.

XXIV. And be it further enacted, &c., that the act passed in the fourth year of the reign of His present Majesty, chapter twelve, intituled, *An act to provide for the making of certain improvements about the Lachine Canal*, shall continue to be in force, but the operation thereof shall be suspended until the legislature shall have come to some determination with regard to the enlargement of the said Lachine canal.

Act 4 Will. 4. cap. 12 continued, but the operation suspended.

14. HARBOUR OF MONTREAL.

An Act to provide for the improvement and enlargement of the Harbour of Montreal.

10 & 11 Geo. IV. Cap. 28.

By His GRACIOUS SOVEREIGN,

WHEREAS the harbour of Montreal is at present insufficient for the accommodation of the shipping by which it is frequented, and it is expedient that it be improved and enlarged:—May it therefore please Your Majesty, &c., and it is hereby enacted, &c., that it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government, to appoint three commissioners for the purpose of carrying this act into effect, and to remove the same and appoint others in their stead, when need shall be.

Preamble.

Governor to appoint three commissioners.

See Tables.

II. And be it further enacted, &c., that the said commissioners shall be empowered to improve and enlarge the said harbour, according to the plan made by captain Piper, of the royal Engineers, which plan shall be deposited in the office of the provincial secretary: Provided always, that only that portion of the said work lying between the upper end of Moreau's wharf (marked number two, in the said plan,) and Saint Gabriel street, (marked number five in the said plan,) including the improvements of Market-Island and the *revêtement* of that part of Commissioners' street which is included within the said limits, shall be commenced or undertaken under the authority of this act: Provided further, that no part of the said work shall be undertaken or commenced until the property of the said Market-Island shall be vested in the said commissioners and their successors, for the purposes of this act; and the said commissioners and their successors are hereby empowered to take, have and hold the same, in trust for the purposes aforesaid.

Commissioners to improve the harbour of Montreal, according to the plan made and deposited in the secretary's office.

Proviso.

See Tables.

III. And be it further enacted, &c., that for the purpose of defraying the expenses attending the execution of the said work, it shall be lawful for the said commissioners to borrow from time to time, at the legal rate of interest, on more advantageous terms if it be in their power, and as the same may become necessary for the purposes aforesaid, any sum or sums not exceeding in the whole ten thousand pounds, currency.

Commissioners may borrow money. See Tables.

IV. And whereas it is expedient that the due payment of the interest of the sums of money so borrowed, should be provided for by the Province, and that the said work be executed and legislative provision made for the

Governor may pay the interest of the money to be expended until the work be executed.

collection of wharfage and other dues of that nature, out of which the said interest and the principal sum so borrowed may be paid :—Be it therefore further enacted, &c., that it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government, to authorize, by warrants under his hand, the advance to the said commissioners of such sums of money, out of any unappropriated monies in the hands of the receiver general, as may be necessary to enable the said commissioners to pay the said interest ; and such advances shall be made in the months of January and July in each and every year, and the said commissioners shall on the receipt thereof immediately pay over the sums so advanced to the persons to whom such interest may be due.

Commissioners to render detailed accounts.

V. And be it further enacted, &c., that the said commissioners shall, within fifteen days after the opening of each session of the provincial legislature, lay before the several branches thereof a full and detailed account of their proceedings during the time they shall continue to act under the authority of this act.

Application of the money to be accounted for.

VI. And be it further enacted, &c., that the due application of the monies advanced under the authority of this act, shall be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury, for the time being, in such manner and form as His Majesty, His Heirs and Successors shall direct.

1 Will. IV. Cap. 11.

An Act to authorize the Commissioners appointed under a certain Act passed in the eleventh year of the reign of His late Majesty, intituled, *An Act to provide for the improvement and enlargement of the Harbour of Montreal*, to borrow an additional sum of money, and for other purposes therein mentioned.

MOST GRACIOUS SOVEREIGN,

Preamble.

WHEREAS it is expedient to authorize the commissioners appointed under the authority of a certain act, &c., (10 and 11 Geo. 4. cap. 28,) to borrow an additional sum of money, and to provide for the payment of the same and of the legal interest thereon :—May it therefore, &c., and it is hereby declared and enacted, &c., that it shall be lawful for the commissioners appointed under the authority of the said act, for the purpose of defraying the expenses attending the execution of the work therein mentioned, to borrow from time to time, at the legal rate of interest, or on more advantageous terms if it be in their power, and as the same may become necessary for the purposes aforesaid, any sum not exceeding ten thousand pounds, currency, in addition to a like sum of ten thousand pounds, currency, which the said commissioners are by the said act authorized to borrow.

Commissioners may borrow money for the purposes of this act.

Provision made for the payment of the monies so borrowed.

II. And whereas it is expedient that legislative provision should be made for the due payment of the interest of the monies so borrowed, until the work shall be executed, and wharfage and other dues collected, out of which the said interest may be paid :—Be it therefore enacted, &c., that it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government, to authorize by warrant under his hand, the advance to the said commissioners of such sums of money, out of any unappropriated monies in the hands of the receiver general, as may be necessary to enable the said

commissioners to pay the said interest ; and such advances shall be made in the months of January and July, in each and every year, and the said commissioners shall on receipt thereof, immediately pay over the sums so advanced, to the persons to whom such interest may be due.

V. And be it further enacted, &c., that whenever the whole amount of the sums so advanced shall have been so paid to His Majesty's receiver general, the said commissioners shall pay off the principal of the sums borrowed under the authority aforesaid, by payments of not less than ten per cent. on the whole amount so borrowed ; and the intended payment of any part of the said principal shall be announced by the said commissioners by an advertisement inserted, during at least three successive weeks, in one of the newspapers published in the English and one in the French language, in the city of Montreal ; and the persons to whom the said principal shall be due, shall receive the portion thereof so announced to be payable, and shall grant to the said commissioners an acquittance of the same.

VII. And be it further enacted, &c., that if any injury shall be done to the said wharves or quays, or to any of the works erected under the authority of the act hereinbefore cited, by any vessel, craft, boat or raft, or by any of the crew or other persons belonging to or on board of such vessel, craft, boat or raft, it shall and may be lawful for the said commissioners or for any of the persons employed by them or under them as aforesaid, to seize and detain such vessel, craft, boat or raft, until the injury so done shall have been repaired by the crew or persons belonging to the same, or until security shall have been given by the owner, manager, conductor, or consignee of such vessel, craft, boat or raft, to the satisfaction of one of the said commissioners, to pay such amount as shall be awarded, with costs, by the judgment of any court of competent jurisdiction, in a suit or action to be brought by the said commissioners by reason of such injury ; and for any injury done to the said wharves, quays, or other works by any other person or persons whatsoever, the said commissioners may sue for and recover, with costs, in any court of competent jurisdiction, such amount as shall be awarded as damages by the judgment of such court : Provided always, that when the amount of the damage or penalty sued for by the said commissioners shall not exceed five pounds, currency, the same may be sued for and recovered upon the oath of two credible witnesses, before any two justices of the peace ; any law, usage or custom to the contrary notwithstanding : And provided also, that if it should be proved that such detention was unnecessary, the said commissioners shall be responsible for such damages as shall be proved to have been occasioned thereby, and the amount of such damages shall be sued for and recovered in any court of competent jurisdiction.

VIII. And be it further enacted, &c., that the due application of all monies advanced or received under the authority of this act, shall be accounted for to His Majesty, His Heirs and Successors, through the lords, commissioners of His Majesty's treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall be pleased to direct.

IX. And be it further enacted, &c., that the said commissioners shall annually submit to the three branches of the legislature, within the first fifteen days after the opening of each session of the provincial parliament, a detailed and particular account of the monies by them received and expended

pendent, to be rendered. under and by virtue of this act, or of the act hereinbefore cited, and of the vessels, craft, boats and rafts, merchandize and effects, upon which tolls shall have been levied during the preceding year, together with a statement of their proceedings in the execution of their duties.

2 Will. IV. An Act to authorize the Commissioners appointed under a certain Act therein mentioned, to borrow a further sum of money, to be applied to the improvement and enlargement of the Harbour of Montreal, and for other purposes.
Cap. 36.

MOST GRACIOUS SOVEREIGN,

Preamble.

WHEREAS it is necessary to provide further for more fully carrying into effect a certain act, &c., (10 & 11 Geo. 4. cap. 28) and for other objects connected with the improvement of the said harbour :—May it therefore, &c., and it is hereby enacted, &c., that it shall be lawful for the commissioners appointed under the authority of the said act, for the purpose of defraying the expenses attending the execution of the work mentioned in the said act, or in this act, to borrow, from time to time, at the legal rate of interest, or on more advantageous terms if it be in their power, and as the same may become necessary for the purposes aforesaid, any sum not exceeding fifteen thousand pounds, currency, over and above the sums which the said commissioners are by the said act, or by a certain other act passed in the first year of His Majesty's reign, authorized to borrow for the said purposes.

Provision

II. And whereas it is expedient that legislative provision should be made for the due payment of the interest of the money so borrowed, until the work shall be executed, and wharfage and other dues collected, out of which the said interest may be paid :—Be it therefore enacted, &c., that it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government of the Province, to authorize, by warrant under his hand, the advance to the said commissioners of such sums, out of the unappropriated monies in the hands of the receiver general, as may be necessary to enable the said commissioners to pay the said interest ; and such advances shall be made in the months of January and July, in each and every year, and the said commissioners shall immediately pay over the sum so advanced to the persons to whom such interest may be due.

Application of the monies to be accounted for to His Majesty, and to the legislature.

VII. And be it further enacted, &c., that the due application of the monies appropriated by this act, shall be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury, for the time being, in such manner and form as His Majesty, His Heirs and Successors shall direct ; and that a detailed account of the expenditure of all such monies, shall be laid before the several branches of the provincial legislature, within the first fifteen days of the next session thereof.

Commissioners to submit detailed reports.

VIII. And be it further enacted, &c., that the said commissioners shall annually submit to the three branches of the legislature, within fifteen days after the opening of each session thereof, a detailed account of their proceedings under the authority of this act.

An Ordinance to authorize the Commissioners appointed under a certain Act of the Legislature of this Province therein mentioned, to borrow a further sum of money to be applied to the improvement and enlargement of the Harbour of Montreal, and for other purposes. 1 Vict. Cap. 23.

WHEREAS it is necessary to provide further for more fully carrying into effect a certain act, &c., (10 & 11 Geo. 4. cap. 28) and a certain other act, &c., (2 Will. 4. cap. 36):—Be it therefore ordained and enacted, &c., that it shall be lawful for the commissioners appointed under the authority of the said acts, for the purpose of defraying the expenses attending the execution of the work mentioned in the said acts, to borrow with the approbation and consent of His Excellency the Governor or the Administrator of the government of this Province for the time being, from time to time, at the legal rate of interest, or on more advantageous terms if available in their power, and as the same may become necessary for the purposes aforesaid, any sum or sums of money not exceeding in the whole forty thousand pounds, currency, over and above the sums which the said commissioners are by the said acts, or by a certain other act of the said legislature, passed in the first year of the reign of His late Majesty King William the Fourth, authorized to borrow for the said purpose. Preamble. Commissioners empowered to borrow a sum not exceeding £40,000, currency. See Tables. 1 Will. 4. c. 11.

IV. And whereas it is expedient that provision should be made for the payment of the interest of the money so borrowed, until the work shall be executed, and wharfage and other dues collected, out of which the said interest may be paid:—Be it therefore further ordained, &c., that it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government of this Province, to authorize by warrant under his hand, he advance, to the said commissioners, of such sums out of the unappropriated monies in the hands of the receiver general, as may be necessary to enable the said commissioners to pay the said interest; and such advances shall be made in the months of January and of July in each and every year, and the said commissioners shall immediately pay over the sums of money so advanced, to the persons to whom such interest may be due. Provision for payment of interest.

V. VI. VII. *Omitted.*—*They empower the commissioners to purchase certain houses, &c., and appoint the mode in which the compensation shall be ascertained in case the parties do not agree. Like the clauses which define the work to be performed by the commissioners, they probably are or very shortly will be effete by the accomplishment of their object.*

VIII. And be it further ordained and enacted, &c., that on payment of price or prices, compensation or compensations, to be fixed and determined as aforesaid, or in case of refusal or neglect to accept the same, on deposit thereof in the hands of the prothonotary of the said court of King's bench for the district of Montreal, for the use of the person or persons entitled to the same, the right of property, title and interest in and to such dwelling houses, land and premises, pieces or parcels of land, for which such price or prices, compensation or compensations shall be payable, shall be divested out of the owners and occupiers thereof, and the same shall become and be vested in the said commissioners and their successors, for the purposes of the said acts and of this ordinance. On payment of monies the property to be vested in the commissioners. See Tables.

Due applica-
tion of monies
to be account-
ed for, &c.

X. And be it further ordained and enacted, &c., that the due application of the monies appropriated by this act, shall be accounted for to Her Majesty, Her Heirs and Successors, through the lords commissioners of Her Majesty's treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct; and that a detailed account of the expenditure of all such monies shall be laid before the Governor, Lieutenant-Governor, or person administering the government of this Province, on or before the fifteenth day of December, in each and every year.

2 Vict. (3.)
Cap. 62.

An Ordinance for the more easy and certain collection of the Harbour Dues at Montreal.

Preamble.

The harbour
dues to be re-
ceived by a
collector.

But see Tables.

WHEREAS it is expedient to make provision for the more sure and easy collection of the several rates, tolls and wharfage dues, imposed by a certain act, &c., (1 Will. 4. cap. 11) and by a certain other act, &c., (2 Will. 4. cap. 36):—Be it therefore ordained and enacted, &c., that all and every the rates, tolls, wharfage dues and harbour dues of any kind whatsoever, imposed by the said acts or either of them, shall be levied by and paid to the person or persons appointed or to be appointed from time to time to receive and collect the same, by the Governor, Lieutenant-Governor, or person administering the government; and the person so appointed shall be called The collector of harbour dues.

By whom the
dues are pay-
able.

How they may
be recovered.
See Tables.

II. And be it further ordained and enacted, &c., that the rates, tolls and dues so imposed as aforesaid, on any goods, articles and things landed or shipped or embarked in the harbour of Montreal, shall be due and payable by the owner, master, purser, conductor, person in charge of, or consignee of the vessel, steamboat, boat, barge, scow, raft or craft of any kind, in or upon which such goods or articles shall be brought into the said harbour or shipped therein, as shall also the rates, tolls and dues on such vessel, steamboat, boat, barge, scow, raft or craft, saving the recourse any such person paying the same, may by law have against any other person or persons to recover the sum so paid; and the collector of harbour dues appointed or to be appointed as hereinbefore mentioned, may sue for and recover any such rates, tolls and dues from the owner, master, purser, conductor and consignee, or any of them, in any court having jurisdiction to the amount due, or may seize any vessel, steamboat, boat, barge, scow, raft or craft, or any goods, articles or things upon which the same may be due, and detain it or them at the risk, costs and charges of the owner, until the sum due, and the costs and charges incurred in and about such seizure, be paid in full.

Reports of cer-
tain articles to
be made to the
collector, and
the dues paid,
within twenty-
four hours.

III. And be it further ordained and enacted, &c., that the master, purser, conductor, owner or consignee of any vessel (not coming from sea,) or of any steamboat, barge or craft with regard to which no special provision is hereinafter made, or of any boat, scow or raft, shall within twenty-four hours after the arrival thereof in the said harbour, report such arrival in writing to the collector of harbour dues, and shall in such report state the quantity and description of the goods, articles or things in or upon such vessel, steamboat, barge, boat, scow, raft or craft, and shall, within the said delay, pay all sums due and payable by him under the said acts and this ordinance, under a penalty of ten shillings currency, for each day during which such report shall remain unmade or such sums unpaid, after the delay aforesaid.

IV. And be it further ordained and enacted, &c., that all timber, fire-wood, plank, bark, grain or hay, which ought under the preceding section to be entered in the report thereby required, but which shall not be so entered, shall be forfeited.

Articles not reported to be forfeited.

V. And be it further ordained and enacted, &c., that the master or purser of each steamboat, barge, vessel or craft plying between Quebec and Montreal, shall within twelve hours after the arrival thereof in the harbour of Montreal, make a report in writing to the collector of harbour dues, showing the number of days such steamboat, barge, vessel or craft shall have remained in the said harbour on its then last preceding voyage, the goods, articles or things landed from it, or taken on board it as freight during such time, and the sum payable by him under the said acts and this ordinance, which sum shall be immediately paid; and any person refusing or neglecting in any respect to comply with the requirements of this section, shall thereby incur a penalty of ten shillings, currency: Provided always, that nothing in this section shall prevent the said collector from demanding and enforcing payment of any such dues immediately after they shall become payable, (and without waiting until any subsequent voyage,) if he shall see fit so to do, or shall be construed to release any person from his liability to pay the same.

Reports of steamboats, &c., plying between Quebec and Montreal, to be made upon every subsequent voyage, and the duty paid.

Proviso.

VI. And be it further ordained and enacted, &c., that the master, purser or person in charge of any steam ferry boat or steamboat employed as a market boat, plying to and from the said harbour, shall, on the Monday of each week, make a report in writing to the said collector, showing the number of trips the boat has made to any wharf mentioned in the acts aforesaid during the week then last passed, and the goods, articles and things landed from it or taken on board it from any such wharf during the same time, and shall immediately pay all the sums payable by him under this ordinance and the acts aforesaid; and any person refusing or neglecting in any respect to comply with the provisions of this section, shall thereby incur a penalty of ten shillings, currency: Provided always, that nothing in this ordinance shall prevent the said collector from demanding and enforcing any such dues immediately after they shall become payable, (without waiting until the end of the week,) if he shall see fit so to do, or shall be construed to release any person from his liability to pay the same.

Reports of steamboats employed as market boats to be made weekly, and the dues then paid.

Proviso.

VII. And be it further ordained and enacted, &c., that all sums due and payable under the acts aforesaid and this ordinance, not herein specially provided for, shall be demanded by the said collector and paid to him, immediately after the same shall become due, on any vessel, boat, barge, raft or craft, and before the landing or shipping or embarking, (as the case may be,) of any goods, articles or things on which such sums may be payable.

Certain dues to be paid on demand of the collector.

VIII. And be it further ordained and enacted, &c., that each report to be made to the said collector, under the provisions of this ordinance, shall be signed by the person making it, and the correctness thereof shall be declared to by such person before the said collector, who is authorized to receive the declaration; and for any and each wilful mis-statement in such report, the person making it shall incur a penalty of five pounds, currency.

Penalty on persons making false reports. See Tables.

IX. And be it further ordained and enacted, &c., that the said collector of harbour dues shall have power, by an instrument under his hand, to appoint a wharfinger, for whose acts he shall be responsible, and whom he

Collector may appoint a wharfinger. See Tables.

may invest with such powers, and authorize to collect such monies and to receive such reports, and generally to perform such other acts relative to the said harbour dues, as shall be specially mentioned and delegated in and by the instrument aforesaid, and no others : Provided always, that such wharfinger may be removed from office by the said collector, whensoever he may deem it expedient so to remove him.

Penalties how
to be recovered
and disposed
of.

X. And be it further ordained and enacted, &c., that all fines, forfeitures and penalties imposed by this ordinance, may be recovered with costs, before any one justice of the peace for the district of Montreal, in a summary manner, and on the oath of one credible witness other than the prosecutor; and one moiety thereof shall go to the prosecutor or informer, and the other half shall be paid into the hands of Her Majesty's receiver general, for the public uses of the Province and the support of the government thereof, and shall be accounted for to Her Majesty, Her Heirs and Successors, through the lords commissioners of Her Majesty's treasury, for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct.

3 & 4 Vict.
Cap. 28.

An Ordinance to authorize the Commissioners for the improvement and enlargement of the Harbour of Montreal, to borrow a further sum of money, and for other purposes.

Preamble.

Commissioners may borrow £23,000, on the most advantageous terms in their power.
See Tables.

WHEREAS it is expedient to make further provision for more fully carrying into effect a certain act, &c., (10 & 11 Geo. 4. cap. 28,) and a certain other act, &c., (2 Will. 4. cap. 36):—Be it therefore ordained and enacted, &c., that it shall be lawful for the commissioners appointed under the authority of the said acts of the provincial legislature, for the purpose of defraying the expenses attending the execution of the works mentioned in the said acts, and in other acts and ordinances relative to the said harbour, and in this ordinance, and all other expenses hereby authorized, to borrow, with the consent and approbation of the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being, at any rate of interest, whether greater or less than six per cent. per annum, (any law to the contrary notwithstanding,) but on the most advantageous terms in their power, and from time to time as the same may become necessary for the purposes aforesaid, any sum or sums of money not exceeding in the whole twenty-three thousand pounds, currency : Provided always, that no further or other sum or sums of money than may have, before the passing of this ordinance, been borrowed under the authority of any act or acts or any ordinance of the legislature of this Province, for the purposes aforesaid, shall hereafter be borrowed under the authority of any such act or ordinance.

No further sum to be borrowed under the authority of any previous law.

Governor to authorize by warrant, an advance to the commissioners in January and July of each year, to pay the interest.

II. And whereas it is expedient that provisions should be made for the due payment of the interest of the money so borrowed, until the work shall be executed, and wharfage and other dues collected out of which such interest may be paid:—Be it therefore further ordained, &c., that it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being, from time to time, to authorize by warrant under his hand, the advance to the said commissioners of such sums, out of any unappropriated monies in the hands of the receiver general, as may be necessary to enable them to pay the said interest; and such advances shall be made in the months of January and July of each and

every year; and the said commissioners shall immediately pay over the sums of money so advanced, to the person or persons to whom such interest may be then due.

V. And be it further ordained, &c., that the steam dredging vessel, and all the apparatus and machinery thereunto belonging, mentioned in a certain act of the provincial legislature, passed in the session held in the tenth and eleventh years of the reign of His Majesty King George the Fourth, and intituled, *An act to appropriate a certain sum of money for the purchase of a steam dredging vessel*, and to defray the expense of purchasing and constructing which, divers sums of the public money have been by the act last cited and by other acts and ordinances appropriated, shall be, and the said steam dredging vessel, machinery and apparatus are hereby placed in and under the control, management, keeping and charge of the said commissioners, subject to such directions and instructions as they may from time to time receive from the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being, with regard to the same; and the said commissioners shall, out of the sum they are hereinafter authorized to borrow for the said vessel and apparatus, pay all debts due for or with regard to the same, and which the sums heretofore appropriated for that purpose may be insufficient to discharge.

The steam dredging vessel, and its apparatus and machinery, placed under the control of the commissioners, (subject to instructions from the Governor) who are to pay all debts due on account of the same.

See Tables.

VI. And be it further ordained, &c., that it shall be lawful for the said commissioners to complete and keep in efficient repair and working order the said steam dredging vessel, machinery and apparatus, with the necessary scows, barges and boats, and to work and use the same within the said harbour, and during the years one thousand eight hundred and forty and one thousand eight hundred and forty-one, in such manner and for such purposes as they shall think best adapted to promote the public good; subject always to such instructions and directions as aforesaid; any thing in any act, ordinance or law to the contrary notwithstanding.

Commissioners to complete the dredging vessel, &c. and to work the same within the said harbour during 1840 and 1841.

See Tables.

VII. And whereas it is expedient to provide for the completion of the said steam dredging vessel and rendering it efficient:—Be it therefore further ordained, &c., that it shall be lawful for the said commissioners to borrow, with the consent and approbation of the Governor, Lieutenant-Governor, or person administering the government of the Province for the time being, in like manner as is hereinbefore provided for the borrowing of the sum and sums of money hereinbefore mentioned, any sum or sums of money not exceeding the sum of five thousand pounds, currency, for completing and working the said steam dredging vessel; and it shall be lawful for the said Governor, Lieutenant-Governor, or person administering the government of this Province, from time to time to authorize the advance of such sums of money out of the unappropriated monies in the hands of the receiver general of this Province, as may be necessary to enable the said receiver general to pay the interest of this said last mentioned sum and sums of money to be borrowed as last aforesaid, in like manner as is hereinbefore provided for the payment of the interest on the money mentioned in the second section of this ordinance.

To borrow £5000 currency, for completing and working the dredging vessel.

The interest to be paid in January and July of each year.

VIII. And be it further ordained, &c., that all the provisions of the fifth, sixth, seventh and eighth sections of a certain ordinance, &c., (1 Vict. cap. 23,) shall extend and are hereby extended, and shall apply to the valuation and purchase of and payment or compensation for any land or real property which the said commissioners are hereby authorized to acquire, as if they

5th, 6th, 7th & 8th sect. of the ordinance 1 Vict. c. 23, extended to real property ac-

quired under this ordinance. had been authorized to acquire the same under and by the said ordinance ; and such land or real property, being so acquired, shall be vested in the commissioners and their successors for the purposes of this ordinance, and of the said ordinance and the acts of the provincial legislature relative to the said harbour and hereinbefore cited and mentioned.

See Tables.

To report their proceedings, and account for all monies received by them.

X. And be it further ordained, &c., that the said commissioners or their successors in office, shall report their doings and account for all monies by them borrowed or received under the authority of this ordinance, in such manner and form, and at such time or times, as the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being, shall direct.

Application of the monies to be accounted for.

XI. And be it further ordained, &c., that the due application of all public monies hereby appropriated, or expended under the authority of this ordinance, shall be accounted for to Her Majesty, Her Heirs and Successors, through the lords commissioners of Her Majesty's treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct.

This Ordinance made permanent.

XII. And be it further ordained, &c., that this ordinance shall be and is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

4 Vict. Cap. 12.

An Ordinance to authorize certain further improvements in the Harbour of Montreal, to establish new rates of Wharfage therein, to authorize the Commissioners for the improvement of the same to borrow a further sum of money, and for other purposes relative to the said Harbour.

Preamble.

WHEREAS it is expedient to authorize the appointment of an additional number of commissioners, who may be invested with and exercise the same powers as may be vested in the commissioners appointed or to be appointed under the authority of a certain act, &c., (10 and 11 Geo. 4. cap. 28,) and to authorize the commissioners appointed or to be appointed under the authority of the said act or of this ordinance, to borrow a further sum of money, for the purpose of enabling them to defray the cost of certain work which it hath become expedient to authorize them to perform, and also such part of the cost of the work authorized by the said act and by divers other acts and ordinances, as the sums they have been and are authorized to borrow by such former acts and ordinances may not be sufficient to enable them to defray :—Be it therefore ordained and enacted, &c., that it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government of this Province, if at any time he shall deem it expedient, to appoint so many persons as he may think proper, to be commissioners under this ordinance, and to remove them and appoint others in their stead from time to time ; and the commissioners so appointed shall and may, jointly with those appointed or to be appointed under the authority of the provincial act first above cited, have and exercise all the powers and perform all the duties, vested in or to be performed by the commissioners appointed under the said act, by any law ; and the word *commissioners* hereinafter used, shall apply to and mean as well the commissioners appointed under this ordinance as those appointed under the said provincial act : Provided always, that any majority of the said commissioners for the time being, or of such of them

Governor may appoint additional commissioners for the improvement of the harbour of Montreal.

Provide.

as shall be then within this province, shall and may exercise all the powers vested in the said commissioners by this ordinance, or by any other ordinance or act.

II. And be it further ordained, &c., that it shall be lawful for the said Commissioners to borrow, for the purposes hereinafter mentioned, and with the consent and approval of the Governor, Lieutenant-Governor, or person administering the government, at any rate of interest whether greater or less than six per cent per annum (any law to the contrary notwithstanding,) but on the most advantageous terms in their power, and from time to time, as the same may become necessary for such purposes, any sum or sums of money not exceeding in the whole the sum of seventeen thousand pounds, currency, for defraying such part of the cost of the work authorized by this ordinance or by any former acts or ordinances, and of such extensions of any parts of the said work as they have made previous to the passing of this ordinance, as the sums they have been and are authorized by law to borrow may not be sufficient to enable them to defray; and the said sum or sums may be so borrowed as aforesaid, over and above any sum or sums which the said commissioners may at the time of the passing of this ordinance, be authorized to borrow by any other act or ordinance then in force.

Commissioners may borrow a further sum of £17,000 currency, on the most advantageous terms. See Tables.

VI. And be it further ordained, &c., that the north-westerly side of the said water-course,* shall throughout its whole length be the boundary of the works under the control and management of the said commissioners on the side next the city of Montreal, and shall form the line of division between the said works and that part of the street or highway along which the said water-course shall run, which shall be under the control and management of the corporation of the mayor, aldermen and citizens of the said city of Montreal.

What is to be boundary of the works on the side next to the city, under the control of the commissioners.

* The water-course here mentioned is described in section V, in the following words:—

“ They may make a sufficient water-course along all those parts of the street or highway next to the said harbour, which are or shall be bounded by the revetment wall, and along which no such water-course has yet been made; and the water-course so to be made shall be at the same distance from the back of the revetment wall, as the water-course already made now is.”

VII. And whereas it is expedient that provision should be made for the due payment of the interest of the money so borrowed as aforesaid, until wharfage and other dues arising from the works and improvements aforesaid can be collected, out of which the said interest may be paid:—Be it therefore ordained, &c., that it shall be lawful for the Governor, Lieutenant-Governor or person administering the government, from time to time to authorize by warrant under his hand, the advance to the said commissioners of such sums, out of any unappropriated monies in the hands of the receiver general, as may be necessary to enable them to pay the said interest; and such advances shall be made in the months of January and July of each and every year; and the said commissioners shall immediately pay over the sums of money so advanced, to the person or persons to whom such interest may be then due.

How the interest of the money borrowed is to be paid in the first instance.

Periods of payment of interest.

IX. And whereas it is necessary to establish other rates of wharfage and dues to be levied and paid in the harbour of Montreal, in the place and instead of those imposed by a certain act, &c., (1 Will 4. cap. 11) and by

The rates of wharfage and other dues imposed by the

Acts 1 Will. 4. a certain other act, &c., (2 Will. 4. cap. 36,) which said rates have been cap. 11 and 2 found insufficient :—Be it therefore further ordained and enacted, that no Will. 4. cap. 36, not to be rates of wharfage and other dues imposed by the said acts or either of them, shall be payable or exigible after the first day of May, one thousand eight hundred and forty-one, any thing in the said acts or either of them to the contrary notwithstanding ; but that in the place and stead thereof, there shall be levied and paid on all vessels, crafts, steamboats or rafts, and on all articles landed or disembarked from, or shipped or put on board of any such vessel, craft, steamboat, boat or raft, lying at any part of the wharves, quays or other works erected or constructed or to be erected or constructed for the improvement of the harbour of Montreal, by the said commissioners, their predecessors or successors in office as such, under the authority of any act or ordinance heretofore passed or of this ordinance, or

New rates of wharfage dues to be levied.

Extent of the harbour for the purposes of this Ordinance.

lying, whether in the stream or otherwise, within any part of the harbour of Montreal, (which shall for the purposes of this ordinance be held to extend from the Lachine canal wharf to the lower extremity of the revetment wall, that is, to the point where the said wall joins the government works at the commissariat store) the several rates of wharfage mentioned in the schedule hereunto annexed.

Such rates to be levied and applied by the commissioners. Proviso.

X. And be it further ordained, &c., that the said rates of wharfage shall be paid and levied, received, recovered and applied by the said commissioners, who are hereby directed and empowered to levy, receive, recover and apply the same, subject to the provisions hereinafter made : Provided always, that the said commissioners may, from time to time, appoint and authorize any person or persons to receive the said rates of wharfage, and may allow to such person or persons, a reasonable compensation for his or their services, not exceeding in any case two and one-half per cent. on the sums actually received for such rates of wharfage by such person or persons.

By whom said rates are to be paid.

XI. And be it further ordained, &c., that the said rates of wharfage shall be due and payable by the owner, master, purser, conductor, person in charge of, or consignee of the vessel, steamboat, boat, barge, scow, raft or craft of any kind, upon which or in respect of articles shipped on board of, or landed from which, such rates of wharfage may be due, saving the recourse any such person paying the same may by law have against any other person or persons to recover the sum so paid ; and each and every the powers and authorities vested by a certain ordinance, &c., (2 Vict. (3.) cap. 62,) in the collector of the harbour dues, with regard to the rates, tolls and wharfage dues in the said ordinance mentioned, and to the recovery thereof, shall be and are hereby vested in and shall and may be exercised by the said commissioners, with regard to the rates, tolls and wharfage dues hereby imposed, and to the recovery and means of enforcing or ensuring payment thereof ; and each and every person bound by the said ordinance to make any report to the collector of harbour dues, shall make such report to the said commissioners or to such person as they shall appoint to receive such report, under the same penalties for neglect or for making any false or insufficient report, as are imposed for a like offence in and by the said ordinance ; which said penalties shall be recovered, applied and accounted for in the manner appointed in and by the said ordinance, with regard to the penalties thereby imposed.

Certain powers and authorities assigned to the collector of harbour dues under 2 Vic. cap. 62, vested in the commissioners.

See Tables.

XII. And be further ordained, &c., that all the provisions and enactments of the said last mentioned ordinance, passed in the second year of Her Majesty's reign, as extended, applied and amended in and by the preceding section of this ordinance, shall be and are hereby made permanent and shall remain in force until repealed or altered by competent authority.

The enactments of 2 Vict. c. 62, as hereby extended &c. to be permanent.

XIII. And be it further ordained, &c., that the tolls, rates and wharfage dues hereby imposed, shall be held to be tolls and dues levyable in the port of Montreal, within the meaning of the eighteenth section of the act of the legislature of this Province, passed, &c., (6 Will. 4. cap. 22. page 411.) and the provisions and enactments of the said act shall be and are hereby extended accordingly.

The said rates to be held to be tolls and dues payable in the port of Montreal.

XIV. And be it further ordained, &c., that the monies arising from the tolls, rates and wharfage dues hereby imposed, shall be applied by the said commissioners :—1stly,—To the payment of such reasonable expenses of collecting the same as are hereby authorized, and of all other expenses indispensably incurred by the said commissioners in the performance of the duties hereby assigned to them.—2ndly,—In defraying any expenses by them incurred in keeping the works constructed or to be constructed by the said commissioners, their predecessors or successors in office, for the improvement of the harbour of Montreal, under the authority of any act or ordinance, in efficient repair; which said expenses the said commissioners are hereby authorized to incur, without any special application to or approval by the Governor, Lieutenant-Governor, or person administering the government, anything in any act or ordinance to the contrary notwithstanding.—3rdly,—In paying off the principal of any sum or sums borrowed or to be borrowed by them or which may have been borrowed by their predecessors in office under the authority of any act or ordinance heretofore passed or of this ordinance, and which shall have been or shall be made redeemable at a certain time.—4thly,—In paying the interest then due and payable on any money borrowed or to be borrowed by the said commissioners, their predecessors or successors in office.—5thly,—In repaying to the receiver general any sum or sums of money advanced by that officer to the commissioners under the authority of this ordinance or of any other ordinance or act.—6thly,—In paying off the principal of any sum or sums borrowed or to be borrowed by them, or their predecessors or successors in office, under this ordinance or under any other ordinance or act, and which shall not have been made redeemable at a certain time: Provided always, that the said commissioners shall pay off the principal of the sum to be borrowed under the authority of this ordinance, by payments of not less than ten per cent. on the whole amount so borrowed; and the intended payment or any part of the said principal shall be announced by the said commissioners, by an advertisement inserted, during at least three successive weeks, in one of the newspapers published in the city of Montreal in the English language, and in one of the newspapers published in the French language in the said city, if any there be; and the persons to whom the said principal shall be due, shall receive the portion thereof so announced to be payable, and shall grant to the said commissioners an acquittance for the same, nor shall any interest accrue or be payable on any such portion, from and after the day on which the said commissioners shall, by such advertisement, offer and shall be ready to repay the same.

How the said rates and dues are to be applied.

Proviso respecting the repayment of the principal borrowed.

See Tables.

XV. And be it further ordained, &c., that over and above the sums which the said commissioners have borrowed or are authorized to borrow

The commissioners may

borrow further sums to pay off the principal of certain loans, under the same provisions as the previous loans.

Proviso.

under the authority of any former act or ordinance now in force, or of the preceding sections of this ordinance, it shall be lawful for them, at any time and as often as occasion may require, to borrow in like manner such further sum or sums as may be necessary to enable them to pay off the principal of any loan which they may have bound or may bind themselves to repay at any certain time, and which the funds in their hands or which will probably be in their hands at such time and applicable to such repayment, shall appear insufficient to enable them to repay, or such further sum or sums as they may find it expedient at any time to borrow in order to pay off the principal of any sum borrowed at a greater rate of interest than that which they shall pay on such further sum to be borrowed as aforesaid : Provided always, that any sum or sums borrowed under the authority of this section, shall be applied solely to the purposes herein mentioned, and that no such sum shall be so borrowed without the approval of the Governor, Lieutenant-Governor, or person administering the government of the Province, and that the whole sum due by the said commissioners under debentures then unredeemed, and issued under the authority of any former act or ordinance or of this ordinance, shall in no case exceed one hundred and eight thousand pounds, currency : and all the provisions of this ordinance, touching the terms on which any sum shall be borrowed under the authority thereof by the said commissioners, the rate of interest payable thereon, the payment of such interest, the advance by the receiver general of the sums necessary to enable the commissioners to pay such interest, the repayment of the sums so advanced, the manner in which the principal of such sums may be paid off by the commissioners to the lenders, and the mode of preventing further interest from becoming due on the sums they may be ready to pay off as aforesaid, shall be extended to any sum or sums borrowed under the authority of this section.

Reports of proceedings and detailed accounts to be rendered.

XVI. And be it further ordained, &c., that the said commissioners shall from time to time, and whensoever they shall be thereunto required by the Governor, Lieutenant-Governor or person administering the government, render and report to him, or to such officer or person, and in such manner and form as he shall appoint for that purpose, a true and faithful account in detail of all monies by them borrowed, collected, received or expended under the authority of this ordinance, and of all their doings under the same.

Application of monies to be accounted for.

XVII. And be it further ordained, &c., that the due application of all monies received or advanced by the receiver general under the authority of this ordinance, shall be accounted for to Her Majesty, Her Heirs and Successors, through the lords commissioners of Her Majesty's treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct.

This ordinance to be permanent.

XVIII. And be it further ordained, &c., that this ordinance shall be and is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

SCHEDULE.

Schedule of Tolls, Rates and Wharfage dues to be levied in the Harbour of Montreal, referred to in the foregoing Ordinance.

Schedule referred to in the 9th section.

DESCRIPTION.	For each day they remain in port, including the days of arrival and departure.	Rates in shillings, pence, and part of a penny, currency.
On vessels from sea and river craft, per ton of their burthen by register.....	"	$\frac{1}{2}$ d
On steamboats, per ton of their burthen by register.....	"	$\frac{1}{2}$ d
On barges belonging to steamboats, per ton of their burthen by register.....	"	$\frac{1}{2}$ d
On barges from Upper-Canada and Durham boats, if decked.....	"	2s.
" if undecked.....	"	1s.
On boats employed in carrying wood.....	"	1s.
On bateaux.....	"	1s.
On steam ferry-boats, per ton of their burthen by register.....	"	$\frac{1}{2}$ d

Rates in shillings, pence, and part of a penny currency.

	Landed.	Shipped.
On spirits and wines of all kinds, molasses and oil in pipes, butts or puncheons, for each.....	6d	3d
On the same in hogsheads, for each.....	3d	$1\frac{1}{2}$ d
On the same in quarter casks or barrels, for each.....	$1\frac{1}{2}$ d	$\frac{1}{2}$ d
On the same, in cases or baskets of three dozen and under, for each.....	1d	$\frac{1}{2}$ d
On the same, in cases of three dozen and under six dozen, for each.....	2d	1d
On the same, in cases of six dozen and upwards, for each.....	3d	$1\frac{1}{2}$ d
On coffee and sugars, raw and refined, in packages of 300 lbs. gross and under, for each.....	2d	1d
On the same, in packages over 300 lbs. and under 1200 lbs., for each.....	4d	2d
On the same, in packages of 1200 lbs. and upwards, for each.....	6d	3d
On teas of all kinds in packages of 20 lbs. gross, and under, for each.....	$\frac{1}{2}$ d	$\frac{1}{2}$ d
On the same, in packages over 20 lbs. and under 60 lbs., for each.....	1d	$\frac{1}{2}$ d
On the same, in packages of 60 lbs. and upwards, for each.....	2d	1d
On tobacco and snuff, in packages of 300 lbs. gross, and under, for each.....	2d	1d
On the same, in packages over 300 lbs. and under 1200 lbs., for each.....	4d	2d
On the same, in packages of 1200 lbs. and upwards, for each.....	6d	3d
On salt in bulk, per 100 minots.....	6d	3d
On stoved or fine salt in casks or bags, for each.....	2d	1d
On hemp and flax, per ton.....	1s 6d	1s 6d
On pitch, tar, turpentine or rosin, in barrels or other packages, for each.....	1d	$\frac{1}{2}$ d
On coal, coke and cinders, per chaldron.....	6d	3d
On fish, dry and green, not in packages, per hundred weight.....	$\frac{1}{2}$ d	$\frac{1}{2}$ d
On the same, in hogsheads, for each.....	4d	2d
On the same, in tierces, for each.....	2d	1d
On the same, in barrels, for each.....	1d	$\frac{1}{2}$ d
On the same, in kegs or kits, for each.....	$\frac{1}{2}$ d	$\frac{1}{2}$ d
On bricks, per 1000.....	1s	6d
On bar and pig iron, per ton.....	10d	5d

	Landed.	Shipped
On pot and pearl ashes, per barrel	1½d	3d
On pork, beef, tongues, butter, lard, cheese, rice, honey and bees-wax, in tierces, for each	1½d	3d
On the same in barrels, for each	1d	2d
On the same in half barrels, kegs and kitts, for each	½d	1d
On flour, meal, apples and onions in tierces, for each	1½d	3d
On the same in barrels, for each	½d	1d
On the same in half barrels and bags, for each ..	½d	½d
On wheat in bulk, per 100 minots	9d	1s 6d
On oats, per 100 minots	3d	6d
On all other grain and seeds in bulk, per 100 mi- nots	6d	1s.
On grain and seeds of all kinds in tierces, for each	1½d	3d
On the same in barrels or boxes, for each	½d	1d
On biscuit, per hundred weight	½d	1d
On leather, in sides or rolls, not exceeding 112 lbs. in weight, for each	1d	½d
On the same, in sides or rolls, exceeding 112 lbs. in weight, for each	2d	1d
On stone undressed, per toise	"	1s.
On dressed stone, per 100 running feet	"	6d
On sand and lime, per barrique	½d	½d
On horses and neat cattle, per head	2d	2d
On hogs, alive or in carcass, sheep and calves, for each	1d	1d
On timber, square and round, per ton	1½d	3d
On standard staves and heading, per 1000 pieces	2s.	4s.
On puncheon staves and heading, per 1000 pieces	8d	1s 4d
On barrel staves and heading, per 1000 pieces ..	6d	1s.
On deals, three inches thick and under, per 100 pieces	8d	1s 4d
On plank, two inches thick and under, per 100 pieces	5d	10d
On boards one inch thick and under, per 100 pieces	3d	6d
On deal ends, per 100 pieces	3d	6d
On oars, rough or dressed, per 100 pieces	6d	1s.
On handspikes, per 100 pieces	5d	10d
On puncheon or pipe packs, for each	½d	1d
On fire wood and bark, per cord	3d	"
On hay, per 100 bundles	6d	"
On goods landed from vessels from sea or the lighters thereof, or imported from the States by inland navigation, subject to <i>ad valorem</i> duty and not otherwise enumerated in this tariff, for every £100 of the amount entered for duty at the custom house	2s 6d	"
On goods not subject to <i>ad valorem</i> duty nor to specific rates under this tariff, per ton, weight or measurement at the option of the collector ..	6d	"
On goods landed from steamboats, barges or other craft, (except when employed as light- ers of vessels from sea) not subject to specific rates by this tariff, per ton, weight or measure- ment at the option of the collector	3d	"
On goods shipped not subject to specific rates under this tariff, per ton, weight or measure- ment at the option of the collector	3d
On government stores of all kinds, per ton, weight or measurement at the option of the collector	6d	"

15. COURT HOUSES AND GAOLS IN COUNTIES.

An Act to authorize the erection of Court Houses and Gaols 2 WILL. IV.
in the Counties of this Province, and for other purposes there- Cap. 66.
in mentioned.—(*Temporary.*)

MOST GRACIOUS SOVEREIGN,

WHEREAS the erection of court houses and gaols in the several Preamble.
counties of this Province, would be productive of many advantageous
results:—May it therefore please Your Majesty that it may be enacted, and
be it enacted, &c., that it shall be lawful for thirty proprietors, freeholders,
or lessees of real estate whereof the lease shall have been originally execu- Thirty propri-
cuted for a term of twenty-one years at least, residing in any county in this etors in any
Province, to apply by petition in writing to the senior justice of the peace county may
residing in the said county, for leave to hold public meetings therein, in the apply to the
manner hereafter mentioned, for the purpose of ascertaining whether the senior justice
majority of the proprietors, freeholders and lessees as aforesaid in the said to hold public
county, would be desirous of erecting and establishing a court house and gaol. meetings
touching build-
ing a court
house and
gaol.

*Those parts of this act, and of the next, (4 Will. 4. cap. 8,) autho-
rizing the inhabitants of each county to meet and tax themselves for
erecting a court house and gaol, and the government to advance one-
half the costs, (provided such half do not exceed £600,) are omitted for
the reasons stated in the tables, which see.*

XVIII. And be it further enacted, &c., that when the court house and Governor to
gaol shall be finished, delivered and duly received by the said commis- declare the
sioners, it shall be lawful for the Governor, Lieutenant-Governor, or person court house to
administering the government, by proclamation to declare and announce be the place
that from and after the date thereof the said court house shall be the place where the
where the court, having civil and criminal jurisdiction, with the powers and court shall be
authorities hereinafter defined, shall be holden for the county in which the held and the
same is situated, and that the said gaol shall be a county gaol. gaol to be the
county gaol.

XIX. And be it further enacted, &c., that after the issuing of such pro- When the
clamation, it shall be lawful for the justices of the peace residing within the court house is
said county, or any three of them, to hold, four times in every year, a ge- established,
neral session of the peace for the said county, and there to hear and deter- quarter ses-
mine all matters respecting the keeping of the peace, and generally all civil sions to be
and criminal matters of which the justices of the peace in general session held therein.
can take cognizance, according to the laws in force in this Province; and
the said sessions of the peace shall be holden from the second to the tenth of
January, from the first to the tenth of April, from the first to the tenth of
July, and from the first to the tenth of October in every year, Sundays and
holidays excepted; and that the said justices of the peace, in general sessions
as aforesaid, may take cognizance of, hear, try and determine, in a summary
manner, according to the civil law and custom in force in this Province, all
causes and complaints which shall arise within the said county, touching
the recovery of debts not exceeding in amount the sum of ten pounds,
merling: Provided that at least three of the said justices of the peace may, Proviso.
as often as need shall be, hold special sessions of the peace in the said court But see Tables.
house, for the purposes and in the manner by law provided for all such
special sessions respectively.

Justices of the peace in their quarter sessions to appoint the clerk of the court, with the approbation of the Governor.

He shall give security.

But see Tables.

To appoint a gaoler—his salary.

The clerk to advance money to the gaoler to defray the current expenses.

No expense beyond a certain sum to be allowed except by three justices of the peace.

Justices of the peace may appoint a treasurer.

Duty of the treasurer.

XXIII. And be it further enacted, &c., that it shall be lawful for the justices of the peace of the county, in quarter sessions, with the approbation of the Governor, Lieutenant-Governor, or person administering the government, to appoint a fit and proper person, after he shall have found two good and sufficient securities, each in the sum of two hundred pounds currency, to be clerk of the said court of civil and criminal jurisdiction in the said county; and such clerk shall have the custody of the minutes and registers of the said courts, and generally shall be charged with the execution of all matters belonging to his office, and shall receive such fees as shall be fixed by the tariff provided by this act, and shall be held every three months, at the quarter sessions, to render, before the justices of the peace of the said court, an exact account, certified under oath, of all monies received as duties imposed on all judicial proceedings of the said court, as regulated by the said tariff, for defraying the expenses of the costs of the apportionment of the said court house and gaol, and shall immediately pay over the amount thereof to the treasurer of the said county; and it shall be lawful for the justices of the peace of the county, in quarter sessions, to appoint a gaoler for the said county gaol, who shall have the charge of all prisoners committed to his custody, and also the care and keeping of the said court house, for which said services the said gaoler shall receive annually, on the order of the said justices of the peace, in quarter sessions, a sum not exceeding twenty pounds currency, in half yearly payments, from the treasurer of the said county, on the order of two justices of the peace sitting ordinarily in the said courts.

XXIV. And be it further enacted, &c., that it shall be the duty of the said clerk to advance, from time to time, to the said gaoler, such sums of money as shall be necessary to defray the current expenses of the said court house and common gaol; and the said clerk shall charge all such expenses in his account, to be rendered every three months as aforesaid.

XXV. And be it further enacted, &c., that no expense exceeding the sum of five pounds, currency, shall be allowed, except at a meeting of three justices of the peace resident in the county, at which meeting the county treasurer shall be present and shall have a deliberative voice; and if the decision of the magistrates at such meeting, or a majority thereof, shall be that such expense should be incurred, the object thereof shall be accomplished with all due diligence by the said clerk, who shall keep a register of the proceedings at all such meetings; and the amount of such expense shall be paid out of the public monies of the said county, which shall be in the hands of the said clerk or treasurer, on the order of three justices of the peace, after the said accounts shall have been examined and approved.

XXVI. And be it further enacted, &c., that it shall be lawful for the justices of the peace last abovementioned, or a majority of them, at a general or special session of the peace for the county, once in every year, to appoint a treasurer for the receiving and paying over of all monies to be levied by virtue of this act, for repairing and keeping up of such court house and common gaol; and in like manner, when and so often as need shall be, to remove such treasurer and appoint another in his stead; and that such treasurer, whenever thereunto required, shall make such payments out of the said monies as shall be ordered at any general or special session of the peace for such county, and shall, whenever called upon so to do, faithfully account at any such session, for all such monies by him received, and for the expenditure thereof.

XXVII. And be it further enacted, &c., that the said treasurer shall keep a register of his proceedings and an exact account of all monies paid and received by him as treasurer of the said county, which registers and accounts shall be examined every three months, by the justices of the peace resident in the said county, at the quarter sessions; and the approval of such accounts by such justices of the peace, or a majority of them, shall be sufficient to discharge and acquit the said treasurer concerning the application of the monies charged in his account.

Treasurer to keep a register of his proceedings.

XXIX. And whereas it is expedient that the whole expense of maintaining and keeping in repair such court houses and common gaols should be borne by the inhabitants of every county in which they shall be built; and that it is expedient to provide proper means for defraying such expenses:—Be it therefore enacted, &c., that upon the proceedings in every action at law in such county there shall be raised, levied, collected and paid, certain duties according to the tariff in this act contained.

Certain duties on law proceedings granted for keeping the court houses and gaols in repair.

Tariff of Judicial Acts, and Fees thereon to the Clerk.

In actions above six pounds five shillings, currency, every writ or summons and declaration, and one copy thereof, three shillings, currency, whereof two shillings to the clerk.

For every additional copy, one shilling and three pence, currency, whereof five pence, currency, to the clerk.

In actions under six pounds five shillings, currency, for every writ or summons and declaration and one copy, one shilling and six pence, currency, whereof three pence, currency, to the clerk. See Tables.

For annexing and certifying any paper writing, six pence, currency, whereof three pence to the clerk.

For the entry in court of every writ and of an opposition, nine pence, currency, whereof four pence, currency, to the clerk.

For the entry of every rule on *faits et articles* and on any *serment décideire*, nine pence, currency, whereof four pence, currency, to the clerk.

Every original subpoena, one shilling, currency, whereof six pence, currency, to the clerk.

Every rule before judgment, one shilling and six pence, currency, whereof nine pence, currency, to the clerk.

Every writ of execution, one shilling and six pence, currency, whereof nine pence, currency, to the clerk.

Every writ of *saisie gagerie* and of *saisie arrêt*, three shillings and nine pence, currency, whereof two shillings, currency, to the clerk.

Every copy thereof, one shilling and three pence, currency, whereof six pence, currency, to the clerk.

An Act to amend the Act passed in the second year of His Majesty's Reign, for the erection of Court Houses and Gaols in the Counties of this Province.—(Temporary.) 4 WILL. IV. Cap. 8.

WHEREAS it is expedient to provide some method of determining the site of the court house and gaol to be erected in any county of this Province, under the act passed in the second year of His Majesty's reign, chapter sixty-six, in cases where there shall be no absolute majority of the trustees elected under the authority of the said act, in favour of any one place as the site thereof, and to make other amendments to the provisions of the said act:—Be it therefore enacted, &c. (Those parts of this act autho-

Preamble.

rizing the Governor to appoint commissioners to determine the site of the court house and gaol, in cases where the trustees under 2 Will. 4. cap. 66, cannot agree, and amending the said act with regard to the election of trustees and their proceedings, are omitted for the reasons mentioned in the tables, which see.

Errors corrected in former act, and the clerk's fees declared by this act.

V. And whereas errors have crept into the English version of the tariff of judicial acts and fees thereon to the clerk, annexed to the act hereinbefore cited and amended, and it is expedient to correct the same:—Be it therefore declared and enacted, &c., that six pence, currency, shall be paid to the clerk, out of the sum of one shilling, and six pence, currency, payable on every additional copy above one of every writ of summons and declaration in actions above six pounds five shillings, currency; and that one shilling, currency, shall be paid to the clerk, out of the sum of one shilling and six pence, currency, payable on every writ of summons and declaration and one copy; any thing in the said act to the contrary notwithstanding.

3 & 4 Vict. Cap. 14.

An Ordinance to continue for a limited time, two certain Acts therein mentioned, relative to the erection of Court Houses and Gaols in the several Counties of this Province, and for other purposes therein mentioned.

Preamble.

2 Will. 4. Cap. 66 and 4 Will. 4. c. 8, continued till 1st Nov. 1845. See Tables.

WHEREAS it is expedient further to continue for a limited time the acts hereinafter mentioned, which would otherwise expire on the first day of May, one thousand eight hundred and forty:—Be it therefore ordained and enacted, &c., that the act, &c., (2 Will. 4 cap. 66,) and the act, &c., (4 Will. 4 cap. 8,) shall be, and the said acts are hereby continued and shall remain in force, until the first day of November, one thousand eight hundred and forty-five, and no longer; any thing in the said acts, or either of them, to the contrary notwithstanding.

At the expiration of the said acts, all lands and buildings thereon erected, vested in any person under them, to become the property of Her Majesty.

II. And to remove all doubt with regard to the effect of the expiration of the said acts in the case hereinafter mentioned:—Be it declared and further ordained and enacted, &c., that after the expiration of the said acts, the property of any land whereon any court house or gaol, or building intended to serve as such, shall have been erected or commenced under the provisions of the said acts, or of either of them, or which shall have been conveyed to any trustees elected or to be elected under such provisions, or to any commissioner or commissioners, or to any person or persons whomsoever, as a site for any such building as aforesaid, shall, together with such building or buildings (if any there be), become the property of Her Majesty, and be vested in Her Majesty, Her Heirs and Successors, for ever, for the public uses of the Province, as shall also all property whatsoever, real or personal, vested in any such trustees as aforesaid, or in any commissioner or commissioners, or other person or persons whomsoever, under the provisions of the said acts, or either of them, in trust for the purposes thereof and for the public use, at the time of the expiration thereof.

16. COURT HOUSES AND GAOLS IN JUDICIAL DISTRICTS.

4 Vict. Cap. 20.

An Ordinance to provide for the erection and establishment of Court Houses and Gaols, in certain Judicial Districts in this Province.

Preamble.

WHEREAS in and by a certain ordinance of the legislature of this Province, passed in the present session thereof and intituled, "An

ordinance to amend two certain ordinances therein mentioned, relative to the administration of justice in this Province, and to make other and further provision on the same subject, power is given to the Governor of this Province, by his proclamation or proclamations to be issued under the great seal of this Province, and by and with the advice of Her Majesty's executive council for the same, to divide this Province into judicial districts, for the purposes mentioned in the said ordinance and in other ordinances therein referred to, and to appoint the place or places within each such judicial district, at which the sittings of the district court shall be held: and whereas it may become necessary that court houses and gaols should be erected in those judicial districts so constituted in which there may be no gaol, or in which there shall be no court house at any place at which the sittings of such district court as aforesaid, shall be appointed to be held: And whereas the expense of erecting such buildings in other parts of the Province has been defrayed out of the public revenue; and whereas in the present circumstances of the country, and in consideration of the course which has hitherto been pursued in such cases, it is reasonable and expedient that local taxation should not be resorted to on this occasion, and that these buildings should, if required, be erected at the expense of the Province:—

Be it therefore ordained and enacted, &c., that a court house or court houses and a gaol may be erected in and for each of the judicial districts hereinafter mentioned, which may be constituted and declared in and by the said proclamation or proclamations, in which there may then be no gaol, or in which there may be no court house at any place which may have been so appointed as that at which sittings of the district court shall be held.

(4 Vict. cap. 19, which is now repealed by 6 Vict. cap. 13.)

Court houses and gaols to be erected.

But see Tables.

II. And be it further ordained, &c., that it shall be lawful for the Governor of this Province, by warrant or instrument under his hand and seal at arms, to appoint in each of the said judicial districts, respectively, in which court houses and gaols may be erected as aforesaid, three persons to be commissioners for erecting the requisite court house or court houses and the gaol, and to remove, from time to time, the said commissioners or any of them, and to appoint others in the place of such as shall be removed, or shall die or resign their trust.

The Governor may appoint commissioners for erecting them.

III. And be it further ordained, &c., that in the said judicial districts, respectively, in which court houses and gaols are to be erected as aforesaid, the said commissioners for such judicial districts, respectively, or any two of them, as soon as may be after they shall be appointed such commissioners, shall, with the approbation of the Governor of this Province in this behalf first had and obtained, select and fix upon some convenient piece or parcel of ground, at each of the places aforesaid at which court houses and gaols are to be erected as aforesaid, on which such court houses and gaols may be erected; and the said commissioners or any two of them shall afterwards, in the manner and under the provisions hereinafter mentioned, take or contract for the absolute purchase of the said pieces or parcels of ground selected as aforesaid, for the purpose of erecting thereon court houses and gaols, in the manner hereinafter directed; which pieces or parcels of ground shall be conveyed to the district council of the municipal district in which the same respectively shall be situate, for and on behalf of the said district, to be held by each of the said districts respectively, in its corporate capacity, for the uses and purposes of this ordinance.

The commissioners to fix upon, and contract for the purchase of the ground upon which they are to be erected.

The ground to be conveyed to the district councils.

IV. And be it further ordained, &c., that it shall be lawful for all corporations, aggregate or sole, husbands, tutors or guardians, curators, and all

Sales of any ground made

by corporations, trustees, &c. to be valid.

trustees whatsoever, who are or shall be seized or possessed of or interested in any piece or pieces, parcel or parcels of ground, selected and fixed upon as aforesaid, not only for themselves, their heirs and successors, but for and on the behalf of all persons whom they represent, or for whom or in trust for whom, they are or shall be seized, possessed or interested as aforesaid, whether minors or issue unborn, lunatics, idiots, *femes covert*, or other person or persons, to contract for, sell and convey such piece or pieces, parcel or parcels of ground, to the district council of the municipal district in which the same shall be situate, for and on behalf of the said municipal district, in its corporate capacity; and such contracts, sales and conveyances shall be valid and effectual in law, to all intents and purposes whatsoever, any law or custom to the contrary notwithstanding; and all corporations and persons whatsoever, so contracting, selling or conveying as aforesaid, are hereby indemnified for and in respect of any such sale, which he, she, or they shall respectively make by virtue or in pursuance of this ordinance.

In case of disagreement as to the price to be paid for any ground, the compensation to be determined by arbitrators.

V. And be it further ordained, &c., that in all cases where the commissioners to be appointed as aforesaid, and the persons seized or possessed of or interested in the said pieces or parcels of ground, or any of them, or any part thereof, shall not, by voluntary agreement, settle and determine the price and prices, compensation and compensations to be paid for the said premises or any part thereof, such price and prices, compensation and compensations shall be ascertained, fixed and determined by the award of arbitrators, in manner following, that is to say:—the said commissioners, or any two of them, shall and may nominate and appoint one arbitrator, being an indifferent and disinterested person, and the said persons seized, possessed or interested as aforesaid, shall and may nominate and appoint one other arbitrator, being also an indifferent and disinterested person; and the said two arbitrators, before proceeding as such arbitrators, shall and may appoint a third arbitrator, being likewise an indifferent and disinterested person, which said three arbitrators, after being previously sworn before one of the justices of the court of King's bench for the district in which such pieces or parcels of ground, respectively, shall be situate, or before one of the justices of the court of common pleas for this Province, well, truly and honestly to execute the trust and duty of arbitrators as aforesaid, and after notice to the parties, respectively, of the time and place of their meeting, shall proceed to ascertain, fix and determine the price or prices, compensation or compensations to be paid by the said commissioners for such pieces or parcels of ground, respectively; and the award of any two of the said arbitrators to be named and appointed as aforesaid, in and respecting the premises aforesaid, shall be final and conclusive.

In certain cases the judges to appoint the arbitrators.

VI. And be it further ordained, &c., that in case the said persons seized or possessed of or interested in the said pieces or parcels of ground, or any of them, or any part thereof, after due notice in this behalf from the said commissioners or any two of them, shall refuse or neglect to name and appoint an arbitrator as aforesaid, being an indifferent and disinterested person as aforesaid, or if the said two arbitrators named and appointed as aforesaid, shall refuse or neglect to name and appoint a third arbitrator as aforesaid, it shall be lawful in such cases, respectively, for one of the justices of the court of King's bench for the district in which such pieces or parcels of ground, respectively, shall be situate, or for any one of the justices of the court of common pleas for this Province, on application in this behalf by the said commissioners or any two of them, to name and appoint instead of such per-

son or persons seized, possessed or interested as aforesaid, so refusing or neglecting, a fit and proper person to be an arbitrator, on his or their behalf, and also to appoint such third arbitrator, to supply the place of the third arbitrator which the said two arbitrators shall refuse or neglect to appoint; and in like manner, if the arbitrator named by the person or persons seized, possessed or interested as aforesaid, and the arbitrator named by one of the justices aforesaid, shall refuse or neglect to name a third arbitrator, for the purposes aforesaid, it shall be lawful for any such justice as aforesaid, to name a third arbitrator to supply the place of such nomination by and on the part of the said two last mentioned arbitrators; and the arbitrator and third arbitrator so as aforesaid, in the cases aforesaid, to be appointed by such justice as aforesaid, after having been respectively sworn by such justice well, truly, and honestly to execute the trust and duty of arbitrator and third arbitrator as aforesaid, shall have the same power and authority in the premises, and their award shall have the same force and effect, as if such arbitrator and third arbitrator, in any or either of the cases aforesaid, had been named and appointed in the manner in the next preceeding section of this ordinance prescribed as aforesaid.

VII. And be it further ordained, &c., that on payment of the price or fees, compensation or compensations to be fixed and determined as aforesaid, or in case of refusal or neglect to accept the same, on the deposit thereof in the hands of the prothonotary of the court of King's bench for the district in which the pieces or parcels of land for which the same shall be payable shall be situate, (or in the hands of the prothonotary of any of the divisions of the court of common pleas for this Province,) for the use of the person or persons entitled to the same,—the right of property, title and interest in and to such pieces or parcels of ground, respectively, for which such price or prices, compensation or compensations shall be payable, shall be divested out of the person or persons seized and possessed thereof, or entitled to the same, and shall become and be vested in the municipal district in which the said pieces or parcels of ground shall be situate, in its corporate capacity, for the purposes of this ordinance; and the commissioners may, after fifteen days notice in that behalf to the proprietor, possessor or occupant of the piece or parcel of land to which such award shall relate, enter upon, take possession of and use such piece or parcel of land for the purposes of this ordinance; any law, statute or usage to the contrary notwithstanding.

VIII. And be it further ordained, &c., that after the said pieces or parcels of ground shall have been conveyed or become vested in the said municipal districts, respectively, as aforesaid, it shall be lawful for the said commissioners or any two of them, for the judicial districts respectively, and they are hereby required to cause to be erected on each of the said pieces or parcels of ground, a good and substantial court house or a gaol, (as the case may be) with proper offices and appurtenances.

IX. And be it further ordained, &c., that before the erection of the said court houses and gaols shall be commenced, the said commissioners, or any two of them, in the said judicial districts respectively, shall and they are hereby required to cause a plan of the said court houses and gaols, with an estimate of the expense of erecting the same, to be made; which plan and estimate shall by the said commissioners or any two of them, be laid before the Governor of this Province, for his approval; and after his approval, it shall and may be lawful for the said commissioners, or any two of them,

From what time the right of title to the ground shall be vested in the municipal districts.

The commissioners to cause court houses and gaols to be erected.

Plans and estimates of the buildings to be approved by the Governor, before any contract is entered into.

Proviso. in the said judicial districts, respectively, from time to time, to agree by contract or contracts in writing, or otherwise, in their discretion, with any person or persons, as well for providing materials and hiring workmen and labourers, as for the building of the said court houses and gaols, or for the building of such part or parts thereof, as to the said commissioners or any two of them, may appear expedient: Provided always, that before making any contract or contracts in writing for the purposes aforesaid, or any of them, thirty days notice at the least shall be given in one or more of the public newspapers printed or circulated within such judicial districts respectively, expressing the object and intention of such contracts, and the time and place of receiving proposals for the same.

The expense of the buildings to be defrayed out of the provincial revenue. X. And be it further ordained, &c., that for defraying the expense of erecting the court houses and gaols to be erected as aforesaid, as well as for the purchase of the pieces or parcels of ground on which the same are to be erected, it shall be lawful for the Governor of this Province, from time to time, from and out of any unappropriated monies in the hands of the receiver general of this Province, to advance to the said commissioners, in the said judicial districts, respectively, any sum and sums of money which shall be necessary to defray the expenses to be by them respectively incurred in carrying this ordinance into effect: Provided always, that the sums so advanced shall not in the whole exceed fifty thousand pounds, currency; nor shall the sums so advanced during the present year exceed in the whole twenty-five thousand pounds, currency.

Commissioners to render accounts to the Governor. XI. And be it further ordained, &c., that the commissioners to be appointed for the erection of the said court houses and gaols, as hereinbefore mentioned, shall, from time to time, when thereunto required by the Governor of this Province, well and faithfully account to the said Governor, for the due application and expenditure of all and every the sums of money which shall or may come into the hands of the said commissioners, or of any of them, in pursuance of the provisions of this ordinance, in such manner and form as the said Governor shall appoint and direct.

Application of all monies to be accounted for. XII. And be it further ordained, &c., that the due application of all public monies expended under the authority of this ordinance, shall be accounted for to Her Majesty, Her Heirs and Successors, through the lords commissioners of Her Majesty's treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall be pleased to direct.

The said buildings to be appropriated for holding courts of justice, and as common gaols. XIII. And be it further ordained, &c., that when and so soon as the said court houses, to be built under the authority of this ordinance, shall have been erected and completed, in the said judicial districts, respectively, from thenceforth all courts of justice appointed to be held at the places where the same shall be erected, in the said judicial districts, respectively, shall be held in the said court-houses, respectively: And when and so soon as the gaols to be built under the authority of this ordinance shall respectively have been erected and completed, from thenceforth the said gaols shall, if the ordinance cited in the twentieth section of this ordinance shall be then in force, be and shall be deemed and taken to be the common gaols in and for the said judicial districts, respectively, and shall be appropriated and made use of as and for such common gaols, to all and every the intents and purposes for which common gaols may be and are lawfully established and used.

XIV. And be it further ordained, &c., that the said court houses and the buildings thereto belonging, and the furniture thereof, respectively, when the same shall have been erected and completed and furnished, shall thenceforth be repaired and maintained, by and out of the rates and assessments to be imposed and levied in the municipal districts in which the same shall be erected, respectively, under the authority of the district councils thereof; and also the expense of maintaining and supporting the gaols, whether erected under the provisions of this ordinance or before the passing thereof, and of maintaining and supporting the prisoners to be confined in such gaols, as well as all other expenses attending the same, except those hereinafter mentioned, shall be paid out of the rates aforesaid, to be imposed and levied as aforesaid, in the municipal districts composing the judicial district or districts for which such gaol shall be the common gaol, and shall be borne equally by each such municipal district; and the said court-houses and gaols, buildings and furniture shall, from time to time, be insured in the name of the treasurer of the municipal district in which the same shall be situate, for and on behalf of the municipal district, in its corporate capacity, from loss or damage by fire, in such sum or sums of money as the district council of such municipal district shall, from time to time, appoint; and the premium and premiums upon and other expenses attending such insurance, shall be paid and defrayed by and out of the rates aforesaid, and with respect to any gaol, shall be borne equally by the municipal districts bound to maintain the same.

When the said court-houses and gaols are to be maintained by the municipal districts.

But see Tables.

The buildings and furniture to be insured.

XV. And be it further ordained, &c., that the district council of each and every of the municipal districts in which gaols shall be erected, as aforesaid, shall and they are hereby required, from time to time, to appoint a licensed surgeon or physician to be and act as surgeon or physician to the said gaols, respectively, and to fix and establish a reasonable salary to be paid to such surgeon or physician, from and out of the district rates.

Physicians to be appointed by the district councils, with salaries.

XVI. And be it further ordained, &c., that it shall be lawful for each of the district councils, in the said municipal districts, respectively, and they are hereby authorized and required to appoint a reasonable yearly salary to be paid to the gaoler of the gaol within such municipal districts, respectively; which salary shall be instead of all fees, perquisites, or emoluments of any sort or kind whatsoever: and it shall not be lawful for any such gaoler, or any officer belonging to any such gaol, to demand or receive any fee, perquisite or profit of any kind, from any prisoner who may be confined within any of the said gaols, to be built as aforesaid.

District councils to fix the salaries to be paid to gaolers.

XVII. And be it further ordained, &c., that in each and every of the said judicial districts, the sheriff of and in the same shall have power and authority, from time to time, to nominate and appoint such person as he shall judge most proper, to the office of gaoler and keeper of the gaol to be built therein as aforesaid, and to discharge such gaoler and keeper, and appoint another person in his place, when he may deem it expedient.

But see Tables.

XVIII. And be it further ordained, &c., that no spirituous liquors or strong waters shall be sold, supplied, afforded, or given, to any persons confined in any gaol to be erected as aforesaid, or in any other gaol already erected or hereafter to be erected in this Province, unless the same be prescribed or given by or under the direction of a licensed physician, surgeon or apothecary: And if any gaoler, keeper or officer of any of the said gaols, shall sell, lend, supply or give away, or knowingly furnish or suffer any

Penalty on gaolers, &c. knowingly suffering spirituous liquors to be used by prisoners, unless prescribed by physicians.

How persons attempting to convey spirituous liquors to prisoners are to be dealt with.

spirituous liquors or strong waters to be sold, lent, supplied or given away in any such gaol, or brought into the same, for the use of any prisoner or prisoners confined in the said gaols, except such spirituous liquors or strong waters, as shall be prescribed or given as aforesaid, every such gaoler, keeper or other officer, shall, for every such offence, forfeit and lose the sum of ten pounds, current money of this Province, and for a second like offence, shall over and above such penalty incur the forfeiture of his office; which said penalty shall and may be recovered with full costs in any court of record in this Province; and one moiety thereof shall go to Her Majesty, Her Heirs and Successors, for the public uses of this Province, and the other moiety thereof shall go and be paid to such person as shall sue for the same; and if any person shall carry, bring or attempt or endeavour to carry or bring into any of the said gaols, any spirituous liquors or strong waters, except such as shall be prescribed as aforesaid, it shall be lawful for the keeper or officer of any such gaol, to apprehend, or cause to be apprehended, such offender, and to bring such offender before a justice of the peace for the judicial district in which such gaol shall be situated, who is hereby empowered to hear and determine on such offence, in a summary manner, and, on conviction of the offender, to commit him or her forthwith, to the common gaol or house of correction, there to be kept in custody for any time not exceeding three months.

When prisoners may be removed into the said gaols.

See Tables.

XIX. And be it further ordained, &c., that whenever any of the gaols, to be built in the said judicial districts, respectively, shall be made fit for the reception and safe keeping of such persons as may be lawfully confined and imprisoned therein, and the said commissioners for building the said gaols, respectively, or any two of them, shall give notice thereof in writing, to the sheriff of any such judicial district, it shall be lawful for the said sheriff and he is hereby required to remove to such gaol, all such prisoners as shall then be in custody, who may be lawfully confined and imprisoned therein.

The said gaols and the gaol at Sherbrooke to be used as houses of correction.

See Tables.

57 Geo. 3. cap. 10.

3 & 4. Vict. cap. 43. now repealed.

XX. And be it further ordained, &c., that the said gaols in the said judicial districts, respectively, to be erected as aforesaid under the authority of this ordinance, when and so soon as the same shall be completed, and also the said gaol already erected and being at the town of Sherbrooke, shall, from and after the time when the ordinance hereinafter cited shall come into force, until houses of correction shall be erected in the judicial districts in which they shall lie, be and be deemed and taken to be houses of correction in and for the said judicial districts, respectively, and as such shall be appropriated to all and every the uses and purposes for which houses of correction, in and by the statutes and laws of this Province, are established or authorized, and shall also become and be houses of correction within the intent and meaning of a certain act of the legislature of this Province, made and passed in the fifty-seventh year of the reign of His late Majesty King George the Third, intituled, *An act to provide temporary houses of correction in the several districts of this Province*, which said act hath been revived and is now in force, in virtue of two certain ordinances of the legislature of this Province, in this behalf provided; and all and every the provisions in the said act passed in the fifty-seventh year aforesaid, shall, when and so soon as the said gaols, to be built as aforesaid, shall be completed, in what respects the said gaols, and from and after the commencement of the ordinance passed in the fourth year of Her Majesty's reign and intituled, *An ordinance to provide for the easy and expeditious administration of*

justice, in civil causes and matters involving small pecuniary value and interest, throughout this Province, in what respects the said gaol in the said town of Sherbrooke, become and be applicable to, and receive execution in respect of the said gaols, as fully and effectually, to all intents and purposes, as if the same were re-enacted and incorporated in this ordinance, and in like manner as the same were and are applicable, and might and may receive execution, to and in respect of the temporary houses of correction and gaols in the said last mentioned act specified.

XXI. And be it further ordained, &c., that the words *Governor of this Province*, wherever the same occur in the foregoing enactments, shall be understood as comprehending the Governor or person authorized to execute the commission of Governor within this Province, for the time being.

Meaning of words.

XXII. And be it further ordained, &c., that this ordinance, and the provisions therein contained, shall not cease or expire on the first day of November, which will be in the year of Our Lord one thousand eight hundred and forty-two, but shall be and remain a permanent and public law, and in force in this Province, until the same shall be repealed or altered by competent legislative authority; and all judges, justices and other persons therein concerned shall take notice thereof, though the same be not specially pleaded.

This ordinance to be a permanent and public law.

17. COURT HOUSES AND GAOLS, IN GASPÉ.

An Act for erecting Common Gaols with Court Halls, in the
Inferior District of Gaspé.

48 Geo. III.
Cap. 35.

WHEREAS the administration of justice in the inferior district of Gaspé is subject to much difficulty and uncertainty, from there being no common gaol within the same, and also, that the sitting of the courts of justice therein are rendered inconvenient for the discharge of public business, from the want of court halls with proper offices: And whereas from the great extent of the said inferior district, and the natural obstacles to a free communication between the settlements in the Bay of Chaleurs, and other parts of the said inferior district, it will be requisite that two common gaols with court halls should be erected, one at New Carlisle in the Bay of Chaleurs, and the other at Percé in the entrance of the Bay of Gaspé, as being the most frequented and central places in the said inferior district:—May it therefore please Your Majesty, &c., and it is hereby enacted, &c., that it shall and may be lawful to and for the Governor, &c. (*This section is effe by the accomplishment of its object.*)

Preamble.

VII. And be it further enacted, &c., that the said gaol when so erected at New Carlisle, shall become the common gaol of all that part of the inferior district of Gaspé, to the westward of Point Mackarel in the Bay of Chaleurs; and that the gaol when so erected at Percé aforesaid, shall become the common gaol of all that part of the said inferior district, to the eastward and northward of Point Mackarel aforesaid, and on the coast of the river Saint Lawrence, as far as the said inferior district extends; and the sheriff of the said inferior district shall have the keeping of each of the said several gaols aforesaid, so to be erected; and when and so soon as the said gaols shall be fit for the reception of prisoners, the said commissioners respectively, or any two of them, shall cause notice thereof to be given to the sheriff of the said inferior district accordingly.

Both gaols declared the common gaols of the district.

But see Tables.

Sheriff to have charge of them.

Governor to
appoint the
gaoler and
keeper of each
of the gaols.

VIII. And be it further enacted, &c., that it shall and may be lawful to and for the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being, after the said common gaols with court halls shall have been respectively erected as aforesaid, to appoint a gaoler and keeper of each of the said common gaols and court halls, and to allow to them respectively a fixed salary, together with the use and enjoyment of any part of the ground and premises which may belong to each of the common gaols aforesaid; the said salaries to be respectively paid out of any of the unappropriated monies now in the hands of the receiver general of this Province, or which may hereafter come into his hands under any act or acts of the legislature of this Province.

The gaols to
serve as houses
of correction.
See Tables.

X. And whereas it will be expedient that the said common gaols when so erected at New Carlisle and Percé, in manner aforesaid, should also serve as houses of correction:—Be it therefore enacted, &c., that until a house or houses of correction shall be built in the said inferior district of Gaspé, the said common gaols shall serve as houses of correction in the said several portions of the said inferior district, wherein they are to serve as common gaols aforesaid, and each of them is hereby constituted a house of correction; and that all and every idle and disorderly person or rogues and vagabonds and incorrigible rogues, who may, in pursuance of the criminal statutes or criminal laws of this Province, or any or either of them, be liable to be committed to a house of correction, shall be liable to be committed to the said common gaols in the said divisions or portions of the said inferior district respectively, where he, she or they shall be detained, as lawfully and effectually, as if the same were such house of correction as by the said criminal statutes or criminal laws, or either of them, is intended.

18. COURT HOUSES IN QUEBEC AND MONTREAL.

39 Geo. III.
Cap. 10.

An Act for erecting Court Houses with proper offices in the several Districts of Quebec and Montreal, and for defraying the expenses thereof.

MOST GRACIOUS SOVEREIGN,

Preamble.

The Governor
to appoint
three commis-
sioners, &c.

WHEREAS it hath pleased Your Majesty, by message to both houses of the provincial parliament, to signify that Your Majesty, in Your paternal regard for the welfare and happiness of Your faithful subjects in this Province, hath been graciously pleased to give Your Royal attention to the representations which have been made relative to the erection of proper buildings for holding the courts of justice in the several districts of Quebec and Montreal, and to authorize the Governor of this Province to advance, on the part of Your Majesty, the sums which shall be requisite for that purpose, to be replaced at such time and in such manner as, in the wisdom of the provincial parliament, may be found expedient; and whereas, court houses or halls, with proper offices, for the convenient sittings of the courts of justice in the several districts of Quebec and Montreal, respectively, are of urgent necessity, and for the honour of Your Majesty's government and the dignity of justice, ought to be forthwith erected:—May it therefore please Your Majesty, &c., and it is hereby enacted, &c., that it shall and may be lawful to and for His Excellency the Governor, &c. (*This section is effete by the accomplishment of its object.*)

III. And be it further enacted, &c., that when such lots of ground shall be so fixed upon, with such approbation as aforesaid, the said commissioners or any two of them, in each of the said districts respectively, shall as soon as may be, contract for the absolute purchase, in fee simple, of the said lots of ground and each of them, in the said districts respectively, for the purpose of erecting thereon such court houses and proper offices as aforesaid, in such manner as is hereinafter directed; which ground so to be purchased, shall be conveyed to the Prothonotary of the court of King's bench, for the time being, of and for the district in which the lot of ground so to be purchased shall be situate, and to his successors for ever; and the prothonotaries of the court of King's bench for the districts of Quebec and Montreal, respectively, and their respective successors for the time being for ever, are hereby made and declared to be a corporation, for the special purpose of being respectively capable to take and hold in perpetual succession, for the uses and purposes of this act, the said respective lots of ground, and court houses and proper offices as aforesaid, which shall be thereon erected.

As soon as the lots are fixed on, the commissioners to contract for them. To be conveyed to the prothonotaries of the court of King's bench, and to their successors, who are to be a corporation for holding them in perpetual succession, with the court houses, &c. thereon.

VIII. And it is hereby further enacted, &c., that when and so soon as the said court houses shall be erected and sufficiently finished, in each of the said districts of Quebec and Montreal, respectively, the provincial court of appeals, the several courts of King's bench of and for each of the said districts, respectively, the several courts of general quarter or special sessions of the peace of and for each of the said districts, respectively, the weekly sittings of the justices of the peace of and for the said districts, respectively, and all other meetings of the said justices, the court of vice-admiralty of and for this Province, and all special courts of oyer and terminer and general gaol delivery, or other description, shall be holden and kept in the said court houses in the said districts, respectively; any law, custom or usage to the contrary notwithstanding.

Certain courts, &c. to be held and kept in the said court houses when completed.

19. COURT HOUSE AT THREE-RIVERS.

An Act for erecting a Court House with proper Offices in the District of Three-Rivers, and for defraying the expenses thereof.

57 Geo. III.
Cap. 17.

MOST GRACIOUS SOVEREIGN,

WHEREAS it hath pleased Your Majesty, by message transmitted by His Excellency the Governor-in-Chief to both houses of the provincial parliament, to lay before them a presentment of the grand jury of the district of Three-Rivers, representing the insufficiency and insecurity of the building now occupied as a court house for that district,—and to recommend that provision be made for the better accommodation of the courts of justice, and of the public offices connected with them, in that district; and whereas court house or hall with proper offices for the convenient sittings of the courts of justice in the district of Three-Rivers, is of urgent necessity, and for the honor of Your Majesty's government and the dignity of justice, ought to be erected:—May it therefore please Your Majesty, &c., and it is hereby enacted, &c., that it shall and may be lawful to and for His Excellency the Governor, &c., (*This section is effete by the accomplishment of its object.*)

Preamble.

III. And be it further enacted, &c., that when such lot of ground shall be so fixed upon with such approbation as aforesaid, the said commissioners shall be fixed

When the lot shall be fixed

in the commis-
sioners may
purchase the
same as the site
of a court
house, &c. to
be vested in the
prothonotary
of the court
and his succes-
sors for ever.

or any two of them shall, as soon as may be, contract for the absolute purchase in fee simple of the said lot of ground, for the purpose of erecting thereon such court house and proper offices as aforesaid, in such manner as is hereinafter directed; which ground so to be purchased, shall be conveyed to the prothonotary of the court of King's bench for the time being, of and for the said district of Three-Rivers, and to his successors for ever; and the said prothonotary of the court of King's bench for the said district of Three-Rivers, and his respective successors for the time being, and forever, are hereby made and declared to be a corporation, for the special purpose of being respectively capable to take and hold in perpetual succession, for the uses and purposes of this act, the said lot of ground and court house and proper offices, as aforesaid, which shall be thereon erected.

When the
court house is
finished, the
several courts
of King's
bench, &c. to
be held and
kept in the said
buildings.

VI. And be it further enacted, &c., that when and so soon as the said court house shall be erected and sufficiently finished, in the said town of Three Rivers, the several courts of King's bench for the said district of Three-Rivers, the several provincial courts for the said district, the several courts of general quarter or special sessions of the peace for the said district, the weekly sittings of the justices of the peace of and for the said district and all other meetings of the said justices, and all special courts of oyer and terminer and general gaol delivery or other description, shall be holden and kept in the said court house in the said town of Three-Rivers; any law, custom or usage to the contrary notwithstanding.

20. COURT HOUSE AT SHERBROOKE.

2 Vict. (3).
Cap. 38.

An Ordinance for erecting a Court-House with proper Offices at Sherbrooke in the District of Saint Francis, and for defraying the expense thereof.

Preamble.

WHEREAS in consequence of the insufficiency and insecurity of the building now occupied as a court-house for the district of Saint Francis, it is necessary for the honor of Her Majesty's government and the dignity of justice, that a court-house or hall, with proper offices, for the convenient sittings of the courts of justice, should be erected at Sherbrooke in the said district:—Be it therefore ordained and enacted, &c., that it shall and may be lawful for His Excellency the Governor, &c. (*This section is effete by the accomplishment of its object*).

Three commis-
sioners to be
appointed.

Town of Sher-
brooke named.

II. And be it further ordained and enacted, &c., that the village of Sherbrooke, in the said district of Saint Francis, shall be hereafter called the town of Sherbrooke.

The lot of
ground fixed
upon, to be
purchased and
vested in the
prothonotary
of the district,
with the court
house thereon.

V. And be it further ordained and enacted, &c., that if any lot of ground other than that on which the present court-house aforesaid is erected, shall have been so fixed upon with such approbation as aforesaid, the said commissioners or any two of them, shall, as soon as may be, contract for and acquire by purchase or otherwise, the fee simple of the said lot of ground so fixed upon as aforesaid, for the purpose of erecting thereon such court house and proper offices as aforesaid, in such manner as is hereinafter directed; which ground, so to be acquired, shall be conveyed to and vested in the prothonotary of the court of King's bench for the time being, of and for the said district of Saint Francis, and to his successors for ever; and the said prothonotary of the said court of King's bench for the district of Saint Francis

See Tables.

and his respective successors for the time being, and for ever, are hereby made and declared to be a corporation, for the special purpose of being respectively able to take and hold in perpetual succession, for the purposes and uses of this ordinance, the said lot of ground and court-house and proper offices as aforesaid, which shall be thereon erected.

VIII. And be it further ordained and enacted, &c., that when and so soon as the said court-house shall be erected and sufficiently finished, in the said town of Sherbrooke, the court of King's bench for the said district of Saint Francis, the provincial court for the said district, and the courts of general quarter or special sessions of the peace for the said district, the weekly sittings of the justices of the peace of and for the said district, and all other meetings of the said justices, and all special courts of oyer and terminer and general gaol delivery, or other description, and generally all courts of civil or criminal jurisdiction appointed to be holden at the said town of Sherbrooke, shall be holden and kept in the said court house in the said town of Sherbrooke; any law, custom or usage to the contrary notwithstanding.

All courts of civil and criminal jurisdiction for the district to be holden in the said court house.

See Tables.

21. GAOLS AT QUEBEC AND MONTREAL.

An Act to provide for the erecting of a Common Gaol in each of the Districts of Quebec and Montreal, respectively, and the means for defraying the expenses thereof. 45 Geo. III. Cap. 13.

MOST GRACIOUS SOVEREIGN,

WHEREAS the present common gaols of the districts of Quebec and Montreal, are not sufficiently spacious, nor in other respects well adapted for the reception and safe custody of prisoners, so that a new common gaol for the district of Quebec, and a new common gaol for the district of Montreal, are indispensably necessary; And whereas Your Majesty in Your paternal regard for the welfare of Your loyal subjects, hath been graciously pleased to give Your royal attention to the representations which have been made relative to the said common gaols, and to appropriate, in the city of Quebec, a lot of land belonging to Your Majesty, for the site of the said common gaol for the district of Quebec,—and in the city of Montreal, a certain other lot of land, belonging also to Your Majesty, for the site of the said common gaol for the said district of Montreal:—May it therefore please Your Majesty, &c., and it is hereby enacted, &c., that it shall and may be lawful to and for the Governor, &c. (*This section is effete by the accomplishment of its object*).

Preamble.

V. And be it further enacted, &c., that the said gaols, when erected as aforesaid, shall be and become the common gaols for the districts of Quebec and Montreal, severally and respectively; and the sheriffs of the said districts for the time being, shall severally and respectively have the keeping of the said gaols; and when and so soon as the said gaols, severally and respectively, shall be fit for the reception of prisoners, the said commissioners or any two of them, shall cause notice thereof to be given to the sheriffs of the said districts, severally and respectively, who, severally and respectively, shall, with all convenient speed, remove to such gaols respectively, all such prisoners as shall be then in their several and respective custodies.

Gaols when erected to be common gaols for the district.

Sheriffs to have the keeping of the gaols.

10 & 11 Geo. IV. Cap. 31. **An Act to provide for the erection of a Common Gaol in the District of Montreal.**

MOST GRACIOUS SOVEREIGN,

Preamble.

WHEREAS, by reason of the insufficiency of the present common gaol for the district of Montreal, it hath become indispensably necessary to construct a new one, better adapted to the circumstances and to the increasing population of the said district, as well as to the security and health of the prisoners to be detained therein :—May it therefore, &c., and be it enacted, &c., that it shall be lawful, &c. (*This section is effete by the accomplishment of its object.*)

The gaol when built, to be the common gaol of the district.

XII. And be it further enacted, &c., that when the said gaol shall be erected and completed, and public notice by proclamation to that effect shall have been given by the Governor, Lieutenant-Governor, or person administering the government of the Province for the time being, the same shall become and be the common gaol for the district of Montreal, and shall be placed under the charge of the sheriff of that district, for the use for which it is intended.

22. GAOL, OLD, AT MONTREAL.

4 Vict. Cap. 24.

An Ordinance to authorize the transfer of the property of the Old Gaol in the City of Montreal, to the Principal Officers of Her Majesty's Ordinance.

Preamble.
Certain acts cited.

WHEREAS in and by a certain act, &c., (45 Geo. 3. cap. 13,) it was among other things in effect enacted, that a strong and substantial gaol should be erected in the city of Montreal, on a lot of ground belonging to His said Majesty and intended to be appropriated by him for that purpose, and certain sums of the public money of this Province, were, by the said act and a certain other act, &c., (51 Geo. 3. cap. 16,) appropriated to defray the expenses of building such gaol ; and whereas a lot of ground in the said city was appropriated by His said Majesty for the purposes aforesaid, and a gaol was built thereon in pursuance of and under the authority of the act first above cited, and became by virtue of the enactments of the said act the common gaol of the district of Montreal, and the property thereof and of the ground aforesaid, is vested in Her Majesty for the public uses of the Province ; and whereas in and by a certain other act, &c., (10 and 11 Geo. 4. cap. 31,) it was declared, that by reason of the insufficiency of the gaol so erected as aforesaid, it was indispensably necessary to construct a new one better adapted to the circumstances and to the increasing population of the said district, and it was among other things enacted, that a new gaol should be constructed in the manner therein provided, and that when such new gaol should be erected and completed, and public notice to that effect given by proclamation of the Governor or person administering the government, such new gaol should become and be the common gaol of the said district ; and whereas a new gaol was accordingly erected and completed, and public notice to the effect aforesaid was given by proclamation as aforesaid, and the said new gaol became accordingly, and now is the common gaol for the said district ; and whereas the building erected as a gaol under the authority of the act hereinabove cited and the lot of ground whereon it is situate, are no longer necessary for the public uses of this Province, and it

hath been represented by the officers of Her Majesty's ordnance, that it would be advantageous to Her Majesty's service, that the said last mentioned building and lot of ground should be vested in the principal officers of Her Majesty's ordnance in Great Britain, in trust for Her Majesty, and for her service, and it is expedient that the property of the said building and lot of ground should be so vested, under the provisions hereinafter mentioned:—Be it therefore ordained and enacted, &c., that it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being, to appoint one *expert*, and for the officers or chief acting officer of Her Majesty's ordnance in this Province, to appoint another *expert*, and for the two *experts* so appointed jointly to appoint a third *expert*, for the purposes hereinafter mentioned, and before they proceed to act as such *experts*.

Three *experts* to be appointed.

II. And be it further ordained, &c., that the said three *experts*, or any two of them, shall and may estimate and ascertain the value of the building erected as a gaol under the authority of the act herein first above cited, and of the lot of ground whereon it is situate, and the dimensions, boundaries and abutments of the said lot, and shall and may report the same in writing to the Governor, Lieutenant-Governor, or person administering the government for the time being: Provided always, that so much in width along the whole front of the said lot of ground, as shall be necessary to make the footpath hereinafter mentioned in a line with that along the government garden also hereinafter mentioned, shall be reserved to form part of the public street in front of the said lot, and a flagged pavement or footpath shall be made and maintained by the principal officers of Her Majesty's ordnance (if the said lot be transferred to them as hereinafter provided) along the whole front of the said lot, and of the same width and flagged in the same manner, as the flagged footpath along the front of the government garden lying to the eastward of the said lot, and separated from it by a public thoroughfare leading to the *Champ de Mars*; and if the said transfer be effected, then the prothonotaries of the court of King's bench for the district of Montreal, or the persons or officers in whom the property of the court house in the said city, and of the lot of ground whereon it stands, is or shall be then by law vested, are hereby authorized and required to cede to the council of the said city, so much of the said last mentioned lot as may be necessary to continue the said footpath, of the width and in the line aforesaid, along the whole front of the said lot; and the said council shall and may, after such cession, pave the said footpath with flag stone in like manner, and erect a proper wall and iron railing to divide the same from the remainder of the said lot, and shall for ever after maintain the same in good and sufficient repair.

The value of the old gaol, &c. in Montreal to be ascertained by them.

Proviso respecting a footpath to be reserved.

III. And be it further ordained, &c., that if the Governor, Lieutenant-Governor, or person administering the government, shall be satisfied that the report of the said *experts* is correct and just, and shall, in writing under his hand, approve and sanction the same, then on the payment of the sum so ascertained and reported, as the value of the said building and lot of ground, by the officers or chief acting officer of Her Majesty's ordnance in this Province, or on their or his behalf, to the receiver general of this Province, for the public uses thereof hereinafter mentioned, the property of the said building, and of the said lot of ground, bounded and abutted as in and by the report aforesaid it shall be described, shall be, and shall remain and continue vested in the principal officers of Her Majesty's ordnance in Great Britain, and their successors in the said office, in trust for Her

On payment of the sum reported by the *experts*, the gaol and lot on which it is situate, to be vested in the principal officers of Her Majesty's ordnance.

Majesty, Her Heirs and Successors, for the service of the said ordnance department, or for such other public service or services as the said principal officers or their successors in the said office, shall, from time to time, order and direct ; and the property of the said building and lot of ground shall henceforth be and remain and continue so vested accordingly.

The amount so paid to be expended in erecting a penitentiary or house of correction, or other public building in Montreal.

IV. And be it further ordained, &c., that all monies paid to the receiver general under the provisions of this ordinance, shall be and are hereby appropriated to defray the expense of erecting a penitentiary or house of correction in and for the district of Montreal, or some other public building for civil purposes within the said city of Montreal, and the cost of the ground on which the same shall be erected ; and it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government, to cause such penitentiary or house of correction, or other public building as aforesaid, to be erected and completed at any place within the said limits, for such civil purposes, according to such plan, in such manner and under such superintendence and control, as to him shall appear expedient ; and by his warrant or warrants, to be issued from time to time, to authorize the payment or advance by the said receiver general, to the persons mentioned in such warrant or warrants, of such sum or sums as may be necessary to defray any expenses incurred or to be incurred in or about the erection and completion of the said penitentiary or house of correction or other public building, as aforesaid, and not exceeding in the whole the sum so paid to the receiver general, as the value and price of the gaol and lot of ground, of the property of which the transfer is hereby authorized.

This ordinance to be permanent.

V. And be it further ordained, &c., that this ordinance shall be a permanent ordinance, and shall be and remain in force until repealed or altered by competent authority.

23. GAOL AT THREE-RIVERS.

51 Geo. III.
Cap. 17.

An act for erecting a Common Gaol with its dependencies, in the District of Three-Rivers, and to provide the means of paying the expenses thereof.

MOST GRACIOUS SOVEREIGN,

Preamble.

WHEREAS the present common gaol of the district of Three-Rivers is insufficient for the reception and safe custody of prisoners, and that a new common gaol for the district of Three-Rivers is indispensably necessary ; and whereas Your Majesty, in Your paternal regard for the welfare of Your loyal subjects, hath been graciously pleased to give Your royal attention to the representations which have been made relative to the said common gaol :—May it therefore, &c., and be it enacted, &c., that it shall and may be lawful, &c.—(*This section is effete by the accomplishment of its object*).

The said gaol to be the common gaol of the district.

VII. And be it further enacted, &c., that the said gaol, when erected as aforesaid, shall be and become the common gaol for the district of Three-Rivers, and the sheriff of the said district for the time being, shall have the keeping of the said gaol ; and when and so soon as the said gaol shall be fit for the reception of prisoners, the said commissioners or any two of them shall cause notice to be given to the sheriff of the said district, who shall, with all convenient speed, remove to such gaol all such prisoners as shall then be in his custody.

24. GAOL AT SHERBROOKE.

An Act to authorize the erecting of a Common Gaol in the 4 Geo IV.
Inferior District of St. Francis, and for providing the means Cap. 3.
of defraying the expenses thereof.

MOST GRACIOUS SOVEREIGN,

WHEREAS the due administration of justice, the maintenance of good Preamble.
order, and the general welfare of Your Majesty's subjects resident
in the newly erected inferior district of St. Francis, render it necessary to
provide for the erection of a common gaol for the said inferior district :—
May it therefore, &c., and be it enacted, &c., that from and after the passing
of this act, &c. (*This section is effete by the accomplishment of its
object*).

III. And be it enacted, &c., that the said gaol, when erected and finished
and public notice of the same given by a proclamation to that effect of the
Governor, Lieutenant-Governor, or person administering the government of
the Province for the time being, shall be the common gaol of the said in-
ferior district of St. Francis.

An Act to authorize a further Loan of Money, for the erection of 5 Geo. IV.
the Common Gaol for the Inferior District of Saint Francis. Cap. 26.

MOST GRACIOUS SOVEREIGN,

WHEREAS it is expedient to authorize the loan of a greater sum of Preamble.
money than hath by law already been allowed, for the erection of the
common gaol in the inferior district of Saint Francis :—May it therefore,
&c., and be it enacted, &c., that in addition to the sum, &c. (*This section
is effete. See tables.*)

II. And be it further enacted, &c., that the said common gaol, when
erected and finished and notice thereof shall have been given by proclama-
tion, as provided in and by the said act, as also the temporary gaol provided
by the authority of the said act, shall be by the aforesaid commissioners de-
livered over to the sheriff, for the time being, of the said inferior district of
Saint Francis, under whose direction and charge the same shall thereafter be
and remain.

An Act to authorize the payment of certain monies due by the 1 Will. IV.
Commissioners for the erection of the Gaol at Sherbrooke. Cap. 14.

This act is effete ; except, possibly, the following proviso to section I.

Provided nevertheless, that if the said gaol so erected at Sherbrooke shall Proviso.
become a county gaol, the inhabitants of the said county shall refund so
much of the monies granted by this act, as they would have to contribute
under any act of the legislature, towards defraying the expense of the erec-
tion of a county gaol.

25. JESUITS' ESTATES.

An Act to make provision for the appropriation of certain mo- 2 Will. IV.
nies arising out of the Estates of the late Order of Jesuits, Cap. 41.
and for other purposes.

MOST GRACIOUS SOVEREIGN,

WHEREAS His Excellency Matthew Lord Aylmer, knight commander Preamble.
of the most honorable military order of the bath, Governor-in-chief,

Monies received from the jesuits' estates to be applied to the purposes of education exclusively.

was pleased, by message bearing date the eighteenth day of November, one thousand eight hundred and thirty-one, to lay before both houses of the provincial parliament, a despatch by him received from lord viscount Goderich, Your Majesty's principal secretary of state for the colonial department, bearing date the seventh day of July in the said year, whereby it appears that Your Majesty has been graciously pleased to confide without reserve to the provincial legislature, the appropriation of the funds arising from the estates of the late order of jesuits to the purposes of education exclusively; and whereas it is expedient to make legislative provision for carrying Your Majesty's gracious intentions in that behalf into effect:—May it therefore, &c., and be it enacted, &c., that from and after the passing of this act, all monies arising out of the estates of the late order of jesuits, which now are in or may hereafter come into the hands of the receiver general of this Province, shall be placed in a separate chest in the vaults wherein the public monies of the Province are kept, and shall be applied to the purposes of education, exclusively, in the manner provided by this act or by any act or acts which may hereafter be passed by the provincial legislature in that behalf, and not otherwise.

26. PARLIAMENT HOUSE, (AT QUEBEC).

1 Will. IV.
Cap. 16.

An Act to enable His Majesty to acquire the property of the Episcopal Palace at Quebec, and of the Ground thereunto attached, for the public uses of the Province.

MOST GRACIOUS SOVEREIGN,

Preamble.

WHEREAS, by reason of the augmentation of the number of representatives of the several counties of this Province, and the increase of parliamentary business, it has become expedient that the building commonly known by the name of the Episcopal Palace, in which the sessions of the provincial parliament are now held, should be enlarged; And whereas in order to guard against loss, with regard to the expenses incurred and to be incurred about the said building and the ground thereunto attached, it is expedient that the same should become public property, on the terms and conditions made and proposed by the very reverend Bernard Claude Panet, the present catholic bishop of the diocese of Quebec, dated the second day of March, in the present year, by which he declares himself willing to cede to the Province the property of the said episcopal palace and of the ground belonging thereto, on condition that an annual and perpetual ground rent, not subject to redemption, be paid by the Province, to the said present catholic bishop, and to the bishops his successors, or to the person having the administration of the said diocese for the time being, which said ground rent shall be for ever considered episcopal property, and shall represent the said ground and building, and have for ever the same destination as the said episcopal palace and ground would have had, as the same is recognized and set forth in the letters patent of His Most Christian Majesty, bearing date the thirtieth day of May, in the year one thousand seven hundred and forty-three; And whereas Your Majesty's dutiful and loyal subjects, the commons of Lower Canada, have resolved to make provision for the payment of the said rent, and to appropriate such sums of money as may be necessary to enable Your Majesty to pay the same:—May it therefore please Your Majesty, &c., and

be it enacted, &c., that it shall be lawful for the Governor, &c. (*This section is effete. See tables*).

III. And be it further enacted, &c., that when and so soon as the said plan shall have been made, it shall be lawful for the catholic bishop of Quebec, or for the person having the administration of the said diocese of Quebec, to surrender and transfer to His Majesty, His Heirs and Successors, the property of the said ground and building, as shown and designated in the plan to be so made as aforesaid, to be vested in His Majesty, His Heirs and Successors, for the public uses of the civil government of the Province for ever, by a notarial instrument executed in due form of law; and the conditions of the said surrender and transfer shall be mentioned in the said instrument, and shall be,—that there shall be paid to the catholic bishop of Quebec and his successors as such, or to the person having the administration of the said diocese of Quebec for the time being, out of the public monies of the Province, a perpetual and annual ground rent, not subject to redemption, of one thousand pounds, sterling, per annum,—that the said rent shall be paid by warrant under the hand of the Governor, Lieutenant-Governor, or person administering the government, by half yearly payments,—that the said rent shall be episcopal property, and shall represent the said ground and building, and shall as such have, to all intents and purposes, the same destination as the said ground and building would have had if such surrender and transfer had never been made.

As soon as the plan is made, the catholic bishop to surrender to His Majesty the property of the ground and building, subject to a charge of £1000, sterling, to the bishop and his successors yearly.

IV. And be it further enacted, &c., that when the said notarial instrument shall have been so made as aforesaid, and executed between the said catholic bishop of Quebec, his successor, or the person having the administration of the said diocese of Quebec for the time being, and the said commissioners shall execute the same in the name and on the behalf of His Majesty, His Heirs and Successors, the said instrument shall have full force and effect according to the tenor thereof, and to the true sense and meaning of this act; any law, usage or custom to the contrary in any wise notwithstanding.

When the said notarial act is executed, the same to have full force and effect.

V. And be it further enacted, &c., that after the said instrument shall have been made and executed, it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government, by warrant under his hand, to authorize the payment of the said sum of one thousand pounds, sterling, out of any unappropriated monies in the hands of the receiver general, during each and every year, by half yearly payments, to be made according to the tenor of the said notarial instrument.

Governor to pay the £1000 by warrant.

VI. And be it further enacted, &c., that the due application of the monies appropriated by this act shall be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall direct.

Application of the money to be accounted for to His Majesty.

CLASS H.

Relating to Municipal and Local Authorities, and matters now under their control.

1. Municipal districts.
2. Parish and township officers.
3. Incorporation of Quebec.
4. Market in Upper Town, Quebec.
5. ——— in St. Paul Street.
6. Incorporation of Montreal.
7. Vattemare Institute.
8. Common of Montreal.
9. Market, new, at Montreal.
10. ——— St. Anne's, Montreal.
11. ——— in St. Lawrence suburbs.
12. ——— at *Près-de-Ville*.
13. Water-works, at Montreal.
14. Officers' horses exempted from assessment.
15. Market at Three-Rivers.
16. ——— at St. Hyacinthe.

1. MUNICIPAL DISTRICTS.

4 Vict. Cap.
4.

An Ordinance to provide for the better internal government of this Province, by the establishment of Local or Municipal Authorities therein.

Preamble.

The Governor
may erect dis-
tricts for the
purposes of
this ordinance.

See Tables for
proclamations
issued, &c.

WHEREAS, for the better protection and management of the local interests of Her Majesty's subjects in this Province, and for the advancement of the internal prosperity thereof, it is expedient and necessary that municipal authorities be established in the several districts of the said Province:—Be it therefore ordained and enacted, &c., that it shall be lawful for the Governor of this Province, by his proclamation under the great seal thereof, to be issued by and with the advice of Her Majesty's executive council in this behalf, to erect and constitute such and so many districts in this Province, for the purposes of this ordinance, as to him shall appear expedient,* and to fix, appoint and declare the limits of such districts, respectively,—and also by proclamation and by and with such advice as aforesaid, from time to time, as circumstances may render necessary, within two years from the passing of this ordinance, to alter the limits of any such district.

* *Note.*—By the proclamation of the 18th December, 1841, issued by Sir R. D. Jackson, under the 57th section of the registration ordinance, (4 Vict. cap. 30,) the municipal districts constituted under this ordinance were made the registration districts under that, and the places appointed for the council meetings, were made those at which the registry offices were to be held: But by the 7 Vict. cap. 22. section 2, the counties are substituted for the registration districts, and the office is to be kept at such place as the Governor shall have appointed: And under section 4, the register for each county, and an authentic copy of all entries in the register of the district affecting lands in the county, will be found at the county registry office, under whatever act or ordinance such register may have been kept or such entries made:

so that it will be sufficient, in any inquiry as to the claims or titles registered against any property, to know the county in which it is situate, without ascertaining the registration district in which it may formerly have been.

II. And be it further ordained, &c., that each of the districts so erected and constituted shall be, and is hereby constituted a body corporate, and as such, shall have perpetual succession and a common seal, with power to break, renew and alter the same at pleasure, and shall be capable, in law, of suing and being sued, and of purchasing and holding lands and tenements, situated within the limits of such district, for the use of the inhabitants thereof, and of making and entering into such contracts and agreements as may be necessary for the exercise of its corporate functions; and that the powers aforesaid shall be exercised by and through and in the name of the council of every such district, respectively.

Each district to be a body corporate, with certain powers.

III. Provided always, and be it further ordained, &c., that it shall not be lawful for any district incorporated as aforesaid, to exercise any other powers of a corporation except such as are herein mentioned, or such as shall be expressly conferred by the legislature of this Province, or such as shall be necessary for the due execution of the powers herein granted.

The powers to be exercised by each district limited.

IV. And be it further ordained, &c., that there shall be a district council in each of the districts to be erected and constituted as aforesaid, which district councils shall consist of a warden and councillors, to be appointed and elected as hereinafter provided.

Each district to have a council.

V. And be it further ordained, &c., that it shall be lawful for the Governor of this Province, by letters patent to be issued under the great seal of this Province, to appoint from time to time, as occasion may require, one fit and proper person to be warden of and in each of the said districts, for the purposes of this ordinance, which warden shall hold his office during pleasure.

The Governor to appoint a warden for each district.

VI. And be it further ordained, &c., that at the first meeting of the inhabitant householders of the several parishes and townships, or reputed parishes and townships, or unions of parishes and townships and of reputed parishes and townships, in the respective districts in this Province, to be held in pursuance of a certain ordinance made and passed in the present year of Her Majesty's reign, intituled, *An ordinance to prescribe and regulate the election and appointment of certain officers in the several parishes and townships in this Province, and to make other provisions for the local interests of these divisions of the Province*, there shall be

When and by whom the councillors are to be elected.

4 Vict. cap. 3. cited.

electd by the said inhabitant householders, assembled and qualified in the manner prescribed by the said ordinance, one or two councillors to be members of the said district councils, respectively, according as such local divisions as aforesaid, may by reason of the amount of their population, and according to the provisions hereinafter contained, be empowered and required to elect one or two councillors; and at each succeeding annual meeting to be held as aforesaid, there shall be elected, by the inhabitant householders assembled and qualified as aforesaid, a councillor or councillors to supply the place of the councillor or councillors (if any there be) who, having been elected for the local division for which the meeting shall be held, shall have vacated his or their seat or seats, in the manner hereinafter provided, and a councillor to represent such local division in the district council, if such local division shall, since the then last election, have become entitled to elect two such councillors instead of one.

See Tables.

How and by whom the elections are to be conducted and determined.

VII. And be it further ordained, &c., that the said inhabitant householders shall at every such meeting first proceed to the election of a councillor or councillors; and the poll for such election, if demanded by any candidate or by any three electors then present, shall be kept open to an hour not later than three in the afternoon of the first day of such meeting, and shall then finally close; and the name of each elector voting at such election shall be written in poll lists, to be kept at such election by the justice of the peace or other person holding the same; and after the final close of such poll, such justice or other person shall forthwith proceed publicly to declare the number of votes given for each candidate, and shall declare the person or persons having the majority of votes in his or their favor, to be duly elected councillor or councillors as aforesaid; and if there should be at such final closing of the poll, an equal number of votes polled for two or more persons to be councillors as aforesaid, it shall be lawful for such justice or other person holding such election, and he is hereby required, whether otherwise qualified or not, to give a vote for one or other of the persons having such equality of votes, and so determine the election; and the poll lists kept at such election, shall, by such justice of the peace or other person, be delivered after the conclusion of every such election, to the clerk of the district for which such election shall have been held.

The poll lists to be delivered to the clerk of the district.

How the number of councillors for each district is to be regulated.

VIII. And be it further ordained, &c., that the number of councillors to be elected for each of the said districts, shall be regulated as follows, that is to say,—every parish and township, or reputed parish and township, in which the population shall be above three hundred and not exceeding three thousand souls, shall elect one councillor; and every parish and township, or reputed parish or township, in which the population shall exceed three thousand souls, shall elect two councillors; and no parish or township shall be entitled to elect more than two councillors: Provided always, that the unions of parishes and townships, and of reputed parishes and townships, to be made in pursuance of the said ordinance, passed in the fourth year of Her Majesty's reign, shall be taken and considered to constitute parishes and townships for all the purposes of this ordinance.

Proviso.

The Governor to determine the number of councillors to be elected for each parish, &c.

IX. And be it further ordained, &c., that it shall be lawful for the Governor of this Province, before the first Monday in January, in the year of Our Lord one thousand eight hundred and forty-two, to fix and determine by proclamation under the great seal of the Province, in this behalf to be issued, by and with the advice and consent of Her Majesty's executive council, the number of councillors which, according to the amount of their population, shall be elected for each and every parish and township, or reputed parish and township, in the several districts in this Province, and by proclamation and proclamations to be issued thereafter as occasion may require, to determine when any parish or township, or reputed parish or township, by reason of its augmented population, shall be entitled to elect two councillors instead of one, according to the provisions of this ordinance, and also when any parish or township, or reputed parish or township, forming part of a union as aforesaid, shall be respectively and separately entitled to elect a councillor or councillors by reason of its augmented population.

See Tables.

Qualification of a councillor.

X. And be it further ordained, &c., that every person to be elected a member of a district council, as aforesaid, shall be resident within the parish or township, or reputed parish or township, for which he shall be elected, and shall be seized and possessed to his own use, in freehold or in *fief*, or

in *roture*, of lands and tenements within the district in which such local divisions, respectively, shall be situated, or within some one or other of the districts next adjoining such district, of the value of three hundred pounds currency, over and above all charges and incumbrances, due and payable upon or out of the same.

XI. And be it further ordained, &c., that no person being in holy orders, or being a minister or teacher of any dissenting or religious sect or congregation, nor any judge or judges of any court of justice, nor any military, naval or marine officer in Her Majesty's service, on full pay, nor any person accountable for the district revenues, nor any person receiving any pecuniary allowance from the district for his services, nor any person having directly or indirectly, by himself or his partner, any contract, or any share or interest in any contract, with or on behalf of the district, shall be qualified to be elected a councillor in any district council in this Province. Persons not qualified to be elected councillors.

XII. And be it further ordained, &c., that no person shall be capable of being elected a councillor, in any of the district councils in this Province, who shall have been attainted for treason or felony, in any court of law in any of Her Majesty's dominions. Persons attainted of treason or felony, disqualified.

XIII. And be it further ordained, &c., that every person duly qualified, who shall be elected to the office of councillor in any district council within this Province, shall accept such office, or in default thereof shall pay to the treasurer of the district in which he shall have been so elected, a fine not exceeding the sum of ten pounds currency, or such other fine instead thereof as may hereafter be provided by a by-law of such council, to be made in this behalf; and the said fine, if not duly paid, shall, together with the reasonable costs of recovering the same, be levied by distress and sale of the goods and chattels of the person so refusing to accept office, in execution of the warrant of any justice of the peace having jurisdiction within the district, who is hereby required, on the application of the council, and after the conviction of the person so making default, by confession, or on the oath of one or more credible witnesses, to issue such warrant; and the fine so recovered shall be accounted for by the said treasurer as part of the district funds in his hands: Provided always, that no person disabled by permanent infirmity of body or mind, nor any person above the age of sixty-five years, nor any person who within five years from the day on which he shall have been so elected, shall have already served the said office of councillor, or paid a fine for not serving the same, shall be liable to such fine as aforesaid. Persons elected to pay a fine in default of accepting office.

XIV. And be it further ordained, &c., that no person elected a councillor as aforesaid, shall be capable of acting as such, until he shall have taken and subscribed before the warden of the district, or the justice of the peace or other person who shall have presided at the election, (who are hereby authorized to administer the said oaths,) the oath of allegiance to Her Majesty, Her Heirs and Successors, and also an oath in the words or to the effect following, that is to say:—"I, A. B., having been elected a councillor in the district council of _____, do hereby sincerely and solemnly swear that I will faithfully fulfil the duties of the said office, according to the best of my judgment and ability; and that I am seized and possessed, to my own use, of lands held in freehold (or in *fief*, or in *roture*, as the case may be,) within the district of _____, of the value of three hundred pounds currency, over and above all charges and incumbrances due and payable upon or out of the same; and that I have not fraudulently or collusively

How to be recovered and accounted for.

Province.

Each councillor, before he can act as such, to take certain oaths.

The oath of office.

"obtained the same for the purpose of qualifying me to be elected as afore-
"said : So help me God."

Councillors
refusing to
take the oaths,
to pay a fine.

XV. And be it further ordained, &c., that every person duly qualified, who shall be elected to the office of councillor as aforesaid, shall take and subscribe the oaths hereinbefore mentioned, within ten days after notice of his election ; and in default thereof, such person shall be deemed to have refused to accept the said office, and shall be liable to pay the fine aforesaid, as for non-acceptance of office, and the said office shall thenceforward be deemed to be vacant, and shall be filled up by another election.

Manner of
proceeding to
supply the
places of coun-
cillors refusing
to accept office,
or to take the
oaths.

XVI. And be it further ordained, &c., that in cases where any duly qualified person elected to the office of councillor in any of the said districts, shall refuse to accept such office, or shall refuse or neglect to take and subscribe the above mentioned oaths, it shall be lawful for the justice of the peace, or other person who shall have presided at the election at which such person was elected, as often as such case of refusal or neglect shall occur, to proceed, after four days notice in this behalf to the electors qualified as aforesaid, to be posted at two or more of the most public places in the said parishes or townships, or reputed parishes or townships, to another election of a fit and proper person to supply the place of the person who shall have so refused or neglected to accept office, or to take and subscribe the said oaths ; and the councillor who may be elected at such new election, shall hold office until the time at which the person in whose place he may have been elected, would, according to the provisions hereinafter contained, have gone out of office, and no longer, but shall be capable of immediate re-election, unless otherwise disqualified as aforesaid.

Manner of pro-
ceeding to sup-
ply vacancies
occurring be-
tween the an-
nual periods of
election.

XVII. And be it further ordained, &c., that if a vacancy or vacancies in any of the said councils, whether arising from the death of any of the councillors or other cause, shall occur before the annual period of election as hereinbefore prescribed, it shall be lawful for the warden of the district in which such vacancy or vacancies shall have occurred, to issue in the name of Her Majesty, Her Heirs or Successors, his warrant under his hand and seal, directed to one of the justices of the peace, or to some other discreet and competent person resident in the parish or township, or reputed parish or township, in which such vacancy or vacancies shall have occurred, requiring such justice or other person to proceed, after due notice in this behalf to the electors qualified as aforesaid, in causing an election to be made of a councillor or councillors, to supply such vacancy or vacancies ; which warrant shall by such justice of the peace or other person be duly executed ; and every councillor elected under such warrant, shall vacate his seat in the council, at the time when the person in whose stead he shall have been chosen would, according to the provisions hereinafter contained, have vacated his seat, but shall be capable of immediate re-election, if not otherwise disqualified : Provided always, that no such warrant shall be issued as aforesaid, after the third quarterly meeting in any year.

Proviso.

One third part
of the entire
number of
councillors to
go out of office
annually.

XVIII. And be it further ordained, &c., that on the second Monday in January, in the year next following that in which the first election shall be had, and on the same day in every succeeding year, one third part of the entire number of councillors in every district shall go out of office ; and at the last quarterly meeting of each and every district council, in the year in which such first election shall be had, it shall be determined by lot, which among the councillors shall go out of office for that year, and for the next

succeeding year ; but thenceforward in all future years, those persons who shall have been councillors, without re-election, for the longest time, shall vacate their seats : Provided always, that when any district council shall consist of a number of councillors not divisible into three equal parts, it shall be lawful for such district council, by a by-law to be made in this behalf, to fix and determine the number of councillors to go out of office annually, which number shall be as near one third thereof as may be ; and the number so to go out of office annually, shall be so regulated by such by-law, that at the end of three years none of the said councillors shall remain in office ; and provided also, that every councillor who shall go out of office shall, if not otherwise disqualified, be capable of being immediately re-elected.

Proviso, when the number of councillors is not divisible by three.

XIX. And be it further ordained, &c., that in order to determine, in each of the said councils, what councillors are to vacate their seats as aforesaid, in the first and second years after the first election under this ordinance, the clerk to be appointed as hereinafter provided, in each of the said districts, or other officer to be appointed for that purpose by the council, shall, at the last quarterly meeting of such council, to be held in the year in which such first election as aforesaid shall be had, write the name of each of the councillors on a piece of paper, and place the same folded up in a glass or box, from which the names shall be drawn by some person appointed by the council for that purpose ; and the third of the said councillors, or the number of councillors to go out in pursuance of such by-law as aforesaid, who shall vacate their seats in the year then next following, shall be those whose names shall be first drawn, and the third of the said councillors, or the number to go out of office in pursuance of such by-law as aforesaid, who shall vacate their seats in the next succeeding year, shall be those whose names shall be next drawn.

How it shall be determined what councillors are to vacate their seats in the first and second years.

XX. And be it further ordained, &c., that at all meetings of every such council, the warden of the district shall preside ; and in case of his absence, death or incapacity to act, or of any accidental vacancy in the office of warden, the members shall choose, from the councillors present, one of their number to be temporary chairman in the place of such warden, during his absence or during such accidental vacancy in the office of warden.

The warden of the district to preside in each council, and in his absence a chairman to be chosen.

XXI. And be it further ordained, &c., that there shall be in each year, four quarterly meetings of every district council in this Province, which meetings shall be held on the first Tuesday in the months of March, June, September and December, respectively ; and the said meetings shall not at any time be held for a longer period than five successive days ; and at no meeting of any such council, shall any matter be deliberated or determined on, except such matters as fall within the scope of the powers and jurisdiction of such council.

Each district council to hold four quarterly meetings in the year. Proviso.

XXII. Provided always, and be it further ordained, &c., that extraordinary meetings of any such councils may be held, by and under the authority of the Governor of this Province, signified in writing to the warden of the district, who shall give due notice thereof to the councillors of the district ; and such extraordinary meeting shall not continue beyond the period of five days ; and no matters shall be deliberated or determined on, at any such extraordinary meeting, except those for which the same shall have been specially convened.

Extraordinary meetings how to be held and their duration.

XXIII. And be it further ordained, &c., that it shall be lawful for the Governor of this Province, by and with the advice of the executive council,

The Governor to determine

the place of meeting.

See Tables.

How all acts and questions before the council are to be decided.

Casting vote.

See Tables.

Quorum.

How the minutes of proceedings are to be kept.

Committees may be appointed.

Proviso.

District clerks to be appointed by the Governor.

Proviso.

Proviso.

District treasurers to be appointed by the Governor and to give security.

by his proclamation under the great seal of the Province, in that behalf to be issued, to appoint and determine, and to alter from time to time, a occasion may require, the place of meeting for every such district council.

XXIV. And be it further ordained, &c., that all acts whatsoever authorized or required by virtue of this ordinance to be done by the council of any of the said districts, and all questions of adjournment or other questions that may come before any meeting of such council, may and shall be done and decided by the majority of votes of the members present at such meeting, other than the warden; and the warden, or in the absence of the warden, the temporary chairman, shall, in all cases of equality of votes, have a casting vote; and in order to constitute a quorum, there shall be present at every such meeting, a majority of the entire number of councillors elected to serve in such council.

XXV. And be it farther ordained, &c., that minutes of the proceedings of all the meetings of the said councils shall be drawn up and fairly entered in a book to be kept for that purpose, by the clerks of the said councils respectively; which minutes shall be signed by the warden or temporary chairman who shall preside thereat; and the said minutes shall be open to inspection by any elector of the district, at all seasonable times, on payment of a fee of one shilling.

XXVI. And be it further ordained, &c., that it shall be lawful for each of the said councils to appoint, from and out of the councillors elected to serve in such council, such and so many committees, consisting of such number of persons, as they may think fit: Provided always, that it shall not be lawful for such committees to sit or meet on any days except those appointed for the meetings of the said council; and that such committees shall be subject in all things to the authority, control and approval of the said council.

XXVII. And be it further ordained, &c., that from and out of a list of three fit and proper persons, to be submitted by each of the said councils to the Governor of this Province, it shall be lawful for the said Governor to select one, to be and be called the district clerk; and every such clerk shall be appointed by an instrument to be issued under the great seal of this Province, and shall hold his office during pleasure: Provided always, that if at the first meeting under this ordinance, or at the next quarterly meeting after any vacancy shall have occurred in the office of district clerk, or at any extraordinary meeting to be called for the purpose of filling up such vacancy, any such council shall fail to agree upon the three names to be submitted as aforesaid to the said Governor, then it shall be lawful for the said Governor to appoint some fit and proper person to be such clerk: And provided also, that it shall be lawful for the warden to appoint a person to act as clerk, until such time as a clerk shall be appointed in the manner hereinbefore provided.

XXVIII. And be it further ordained, &c., that it shall be lawful for the Governor of this Province to appoint, in each of the said districts, one fit and proper person to be and be called the district treasurer; and such appointment shall be made by an instrument to be issued under the great seal of this Province, after the person named by the said Governor shall have first given good and sufficient security, to be ascertained and determined by the said Governor, for the due execution of the office of treasurer, and for the faithful accounting for all the monies which may come into his hands by virtue of the said office.

XXIX. And be it further ordained, &c., that it shall be the duty of the treasurer of each of the said districts, respectively, to receive all monies which shall be raised under any by-law, to be made as hereinafter provided, by the council of the district wherein he shall have been appointed treasurer, and also all monies which, under any act of competent legislative authority within this Province, have been or shall be directed to be paid to or received by any such treasurer, and to apply and account for the same in such manner as may be prescribed by any by-law of such council, or by any act of such competent legislative authority as aforesaid.

Duty of treasurers with respect to the receiving and accounting for monies.

XXX. And be it further ordained, &c., that every district treasurer shall, in books to be kept for that purpose, enter true accounts of all sums of money by him received and paid, and of the several matters for which the same shall have been received and paid; and the books so kept shall, at all seasonable times, be open to the inspection of every member of the council; and all such accounts, together with all vouchers and papers relating thereto, shall, four times in every year, that is to say, within one month after every quarterly meeting,—be submitted, together with an abstract of such accounts for the last year, by the treasurer, to the district auditors (to be appointed as hereinafter provided) for the purpose of being by them examined and audited; and if the said accounts shall be found to be correct, the same shall be approved and allowed by the said auditors; and after the said accounts shall have been so examined and audited, the said auditors shall make their report thereon to the council at its next quarterly meeting; and every such abstract and report shall be open, at all seasonable times, to the inspection of any inhabitant of the district, who shall also be entitled to copies thereof, on payment of a reasonable fee for the same.

Treasurers to enter their accounts in books to be kept for that purpose.

Accounts to be audited.

Auditors to report thereon to the council. Their report to be open to inspection.

XXXI. Provided always, and be it further ordained, &c., that no district treasurer shall be entitled to any salary or remuneration whatever, unless and until his accounts shall have been duly audited, approved and allowed by the district auditors; and in every bond and other security, given by such treasurer for the due execution of his office, it shall be expressly conditioned, that he shall render true accounts to such auditors, within the time and times prescribed by this ordinance, or within the time and times which shall be prescribed by any other law which shall be in force in that behalf.

Treasurers not to be entitled to any salary until their accounts have been audited.

XXXII. And be it further ordained, &c., that there shall be appointed at the first quarterly meeting in each year, for each district, two persons to be and be called *district auditors*, one of whom shall be appointed by the warden of the district, and the other elected by the council: Provided always, that no person shall be appointed or elected auditor, who shall be a member of the council, or the clerk, or treasurer, or surveyor of the district, nor any person who shall have directly or indirectly, by himself or in conjunction with any other person, any share or interest in any contract or employment with, by or on behalf of such council: And provided also, that no person appointed or elected an auditor for the district, shall be capable of acting as such, unless he shall have previously made and subscribed, before any two of the councillors for such district, (who are hereby authorized to administer the same) an oath in the words, or to the effect following, that is to say:—"I, A. B. having been appointed (or elected, *as the case may be*,) to the office of auditor for the district of
"do hereby promise and swear, that I will faithfully perform the duties
"thereof, according to the best of my judgment and ability; and I do here-

Two auditors to be appointed in each district.

Proviso, as to disqualification.

Proviso. Auditors to take an oath of office.

The oath.

" by solemnly declare and swear, that I have not, directly or indirectly, any share or interest whatever, in any contract or employment with, by or on behalf of the council of this district : So help me God."

Affirmation in certain cases.

False swearing or affirming.

Duty of the auditors.

District surveyors to be appointed.

Their duties.

Their reports to be laid before the councils.

No person to be appointed until declared qualified.

Respecting the holding of district offices.

District councils may make by-laws for certain purposes.
See Tables.

XXXIII. And be it further ordained, &c., that every person authorized by law to make an affirmation, instead of taking an oath, shall make such affirmation in every case in which by this ordinance an oath is required to be taken ; and if any person taking any oath required by this ordinance, or making any affirmation instead of taking such oath, shall wilfully swear or affirm falsely, such person shall be deemed guilty of wilful and corrupt perjury, and be subject to the pains and penalties by law provided for that offence.

XXXIV. And be it further ordained, &c., that it shall be the duty of the auditors in each of the said districts, to examine, settle and allow all accounts which may be chargeable upon their districts, respectively ; and also to examine and audit the accounts of the parish and township officers, or officers of reputed parishes or townships, appointed or hereafter to be appointed in pursuance of the aforesaid ordinance, passed in the present year of Her Majesty's reign, and the accounts of all other persons, against their respective parishes and townships.

XXXV. And be it further ordained, &c., that it shall be lawful for the wardens of each of the said districts, respectively, with the approbation of the Governor of the Province for the time being, to appoint, in each of the said districts, some fit and proper person to be and be called *the district surveyor*, whose duty it shall be to superintend the execution of all works undertaken in pursuance of any by-law of the council of such district, and to take care of all fixed property belonging to the said district, and to examine and report upon all estimates of proposed works, and to enforce the observance of all contracts for the execution of works undertaken for or on behalf of the said district, and to report annually, or oftener if need be, to the said warden, upon the state of the works in progress and of the fixed property belonging to such district ; and all such annual or other reports shall be laid, by the said wardens, before the district council, at the quarterly meeting next after any such report shall have been received, together with an estimate of the probable expense of carrying on such works and managing such fixed property, during the then current or next ensuing year : Provided always, that no person shall be appointed to be such surveyor, unless and until he shall have been examined and declared qualified for the office, by the board of works for this Province, or by some other competent person or persons to be named for that purpose by the Governor of this Province.

XXXVI. And be it further ordained, &c., that it shall not be lawful for any person to hold, at the same time, more than one of the district offices hereby created ; nor shall it be lawful for the partner of any such district officer to hold any district office in the same district wherein such officer shall be employed ; nor shall it be lawful for any such officer to have, directly or indirectly, any share or interest whatsoever, either by himself or his partner, in any contract for executing any work to be undertaken by, for or on behalf of the council of such district.

XXXVII. And be it further ordained, &c., that it shall be lawful for each of the said councils, in the said districts respectively, to make by-laws for all or any of the following purposes, that is to say :—

For making, maintaining or improving of any new or existing road, street, or other convenient communication and means of transit within the limits of

the district, or for the stopping up, altering or diverting of any road, street or communication, within the limits aforesaid.

For the erection, preservation and repair of new or existing bridges and public buildings.

For the purchase of such real property, situated within the limits of every such district, respectively, as may be required for the use of the inhabitants thereof.

For the sale of such part or parts of the real property belonging to such districts respectively, as may have ceased to be useful to the said inhabitants.

For the superintendence and management of all property belonging to the said districts respectively.

For providing for the establishment of, and a reasonable allowance for the support of parish and township schools.

For raising, assessing, levying and appropriating such monies as may be required for the purpose of carrying into effect all or any of the objects for which the said district councils, respectively, are hereby empowered to make by-laws; which monies shall be raised, either by means of tolls to be paid in respect of any public work or works within the limits of the said districts, respectively, or by means of rates or assessments to be assessed and levied on real or personal property, or both, within the limits of such districts, or in respect of such property, upon the owners and occupiers thereof.

For the collection of, and accounting for all tolls, rates and assessments imposed or raised under the authority of any such Council, and of the revenues belonging to such districts, respectively.

For imposing and determining reasonable penalties, to be recovered from such persons, as having been elected to offices as hereinbefore provided, shall refuse to serve the same, or refuse or neglect to take and subscribe the oaths of office, as hereinbefore prescribed for such officers, respectively.

For determining the amount and manner and time of payment of all salaries or other remuneration of district officers to be appointed under the authority of this ordinance.

For determining the amount of salary, fees or emoluments which shall be received by the several parish or township officers, within the limits of such districts, respectively, to be appointed or elected in pursuance of any ordinance or other law now in force, or which may hereafter be in force in this Province.

For providing the means of defraying the expense of maintaining an effective system of police within such districts, respectively.

And for providing for any other purpose, matter or thing, which shall be specially subjected to the direction and control of the said district councils, respectively, by any act of the legislature of this Province or of the Province of Canada.

XXXVIII. Provided always, and be it further ordained, &c., that it shall not be lawful for any such district council as aforesaid, to impose, lay, or levy any rate or assessment whatever on any lands or tenements, goods or chattels, real or personal estates belonging to Her Majesty, Her Heirs or Successors.

No rates or assessment to be imposed on Crown property.

XXXIX. Provided also, and be it further ordained, &c., that it shall not be lawful for any such district council as aforesaid, to impose, lay or levy any rate or assessment whatever on any uncultivated lands in the several seigniories in this Province, which have been and continued, since the original grants of such seigniories, ungranted and unoccupied, in cases

Nor on wild lands in seigniories in certain cases.

where the persons seized or possessed of such seigniories, may be made subject or liable to an assessment or rate on the annual value of such seigniories respectively.

No by-law to be passed for erecting any public work, until an estimate thereof has been prepared and reported upon.

All such work to be executed under a contract in writing.

Copy of every by-law to be laid before the Governor, who may, within 30 days, disallow such by-law, or any part thereof.

Proviso.
The Governor may enlarge the time within which such by-law may be disallowed.

The district councils at their quarterly meetings invested with certain powers.

XL. Provided always, and be it further ordained, &c., that it shall not be lawful for any such council to pass any by-law for erecting any public work, without having first received an estimate of such work, prepared or examined and reported upon by the district surveyor; and if the cost of such work will, in the opinion of the said surveyor, exceed the sum of three hundred pounds, currency, such estimate shall also be examined and reported upon by the board of works in this Province, or by some other competent body or person for that purpose, to be appointed by the Governor of this Province; and provided also, that every such work, to be executed in pursuance of any such by-law, shall be executed under a contract in writing, in conformity with and subject to such general regulations as shall, from time to time, be made, touching the terms and the mode of execution of any such contracts, by the board of works of this Province.

XLI. Provided always, and be it further ordained, &c., that an authentic copy of every such by-law shall, forthwith after the passing thereof, be transmitted by the warden of the district, or the chairman of the district council who may have supplied his place, to the secretary of the Province, who shall, on receipt of the same, note on the copy so received the time of its receipt, and shall lay the same before the Governor of the Province; and no such by-law shall be of any force until the expiration of thirty days after an authentic copy thereof shall have been received as aforesaid; and it shall be lawful for the Governor of this Province, by and with the advice of Her Majesty's executive council, at any time within the said period of thirty days, by his order in council, to declare his disallowance of any such by-law, or any part thereof; and such disallowance, together with a certificate under the hand of such secretary of the Province, certifying the day on which such by-law was received as aforesaid, shall, with all convenient speed, be signified to the warden of the district wherein such by-law shall have been passed; and thenceforward such by-law, or the part thereof so disallowed, shall be void and of no effect: Provided also, that it shall be lawful for the said Governor, if he shall think fit, with the advice of Her Majesty's executive council, by an order in council as aforesaid, at any time within the said period of thirty days, to enlarge the time within which such by-law may be disallowed; and no such by-law shall, in that case, come into force or have effect, until after the expiration of such enlarged time: And provided also, that any by-law repugnant to the law of the land, or to any of the provisions of this ordinance, shall be void and of no effect.

XLII. And be it further ordained, &c., that the said district councils, at their quarterly meetings aforesaid, shall have power to make such orders, relative to the property belonging to such districts, respectively, as to them may appear expedient; and shall have power to settle and pay all accounts which may be chargeable against the said districts, respectively, and to authorize and direct the raising of such sums of money as may be required for the payment of such accounts, by the several parishes and townships, or reputed parishes or townships within such districts, respectively, or as may be requisite for the payment of all salaries and accounts due to parish and township officers and other persons, by such parishes and townships, or reputed parishes and townships, respectively.

XLIII. And be it further ordained, &c., that the warden of each of the said districts shall, at the end of each year, transmit to the Governor of this Province a statement of the accounts of the district, exhibiting an abstract of the receipts and expenditure during the preceding year; and all such accounts so transmitted shall, by the said Governor, be laid before the two houses of the legislature of the Province of Canada, as the same shall be hereafter constituted in pursuance of an act of the imperial parliament, intitled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the government of Canada*, at the session thereof next following the transmission of the said accounts.

An annual statement of the accounts of each district to be transmitted to the Governor and laid before the legislature.

XLIV. And be it further ordained, &c., that no councillor shall, in any case, receive or be entitled to any wages, allowance, profit or emolument whatever, for his services as such councillor, or by reason of his being such councillor.

No councillor to receive any emolument for his services.

XLV. And be it further ordained, &c., that all and every the powers and authorities which by any act or acts, ordinance or ordinances of the legislature, or any law or laws of this Province, have been and are now vested in and may be lawfully exercised by the *grand-voyers* of the several districts of this Province or by any magistrates, with regard to any highways or bridges, except in so far as the same are inconsistent with or repugnant to the provisions of this ordinance, shall, from and after the first section of councillors under the provisions of this ordinance, become and be vested in the several district councils aforesaid, within the limits of their respective districts; and in the exercise of such powers and authorities, it shall in no case be requisite that a *procès verbal* for turning an old or opening a new highway or a new by-road, or to change an old bridge or mark out a new one, or for the making of ditches and outlets, or for any other purpose whatsoever, should be drawn up, or that the same should be confirmed or homologated by any court of quarter sessions, as now by law required when such powers and authorities are exercised by the *grand-voyers*; nor shall the intervention of any such court, or the exercise of its powers, be in any manner required, for or in respect of the legal and effectual exercise of the said powers and authorities, by the said district councils respectively, as aforesaid; any law, usage or custom to the contrary thereof notwithstanding.

District councils to have the powers heretofore vested in the *grand-voyers*.
See Tables.

No *procès-verbal* to be requisite; nor the intervention of any court.

XLVI. And be it further ordained, &c., that the respective *grand-voyers* of the several districts in this Province, and the persons who shall may have ceased to hold the said offices or any of them, and any magistrates as aforesaid, shall, within twenty days after the issuing of the first proclamation under the provisions of the first section of this ordinance, deliver to the prothonotaries of the courts of King's bench for the said districts, respectively, all and every the records, books, *procès verbaux*, judgments, plans, maps, documents, instruments and writings in their custody, possession or power, appertaining to the said offices of *grand-voyers*, respectively, as aforesaid, or relating to any highways or bridges, to be and remain in the custody of the said prothonotaries, respectively, for the use and benefit of all persons interested therein; and in case any such *grand-voyer*, or person who shall have ceased to hold the office of *grand-voyer*, shall refuse or neglect to deliver to the said prothonotaries, respectively, all such records, books, *procès verbaux*, judgments, plans, documents, instruments and writings, every such *grand-voyer*, or person who shall have ceased to hold the office of *grand-voyer*, so refusing or neglecting, shall be held to be

All records, &c., appertaining to the office of *grand-voyer*, &c. to be delivered to the prothonotaries.

Any *grand-voyer* refusing to deliver over such records, &c. to be guilty of a misdemeanor and

liable to damages.

guilty of a misdemeanor, and shall besides be liable to make satisfaction to the parties aggrieved or injured, for all such damages and costs as he, she or they shall sustain by reason of such refusal or neglect.

The Governor may grant compensation to the persons holding offices which will be abolished under the provisions of this ordinance.

XLVII. And be it further ordained, &c., that it shall be lawful for the Governor of this Province, on any claim which may be made by any of the persons holding offices which will become and be abolished expressly or virtually under the provisions of this ordinance, for compensation for loss by reason of such abolition, to determine, by and with the advice of the executive council of this Province, whether any such claim have or have not a reasonable and just foundation; and if such claim be admitted to be well founded and just, to assess and award thereupon such compensation as by the said Governor, with such advice as aforesaid, may be deemed reasonable and proper, regard being had to the tenure under which the said offices have been held, and to the appointment which might be made of the said persons, if qualified, to offices of a similar or other nature, and to all such circumstances as may and ought to be considered in relation to such claim; and the compensation that may be assessed and awarded as aforesaid, shall be paid out of the unappropriated monies for public uses, in the hands of the receiver general of this Province.

The Governor may dissolve any of the councils.

XLVIII. And be it further ordained, &c., that it shall be lawful for the Governor of this Province for the time being, by proclamations to be issued by and with the advice and consent of the executive council of the Province, when and as often as circumstances shall, in his and their opinion, warrant such a measure, to dissolve all or any of the aforesaid councils; and in every case of a dissolution of such council or councils, the warden of the district wherein such dissolution shall have taken place shall, within ten days after such dissolution, issue his warrant in the name of Her Majesty, Her Heirs or Successors, under his hand and seal, directed to one of the justices of the peace, or to some other discreet and competent person, resident in each of the several parishes or townships comprised within the said district, requiring such justice or other person to proceed, after due notice in this behalf to the electors qualified as aforesaid, in causing elections to be made in each of the parishes and townships of the said district, of a councillor or councillors, according as such parish or township may, by the provisions hereinbefore contained, be empowered to elect one or two councillors; and such new elections shall be governed by the same rules and provisions as are hereinbefore provided for the election of councillors; and in all cases where such new election of councillors after a dissolution shall take place as aforesaid, the period at, from and after which councillors shall vacate their seats, in certain proportions as hereinbefore provided, shall commence upon and be accounted from the second Monday in January next following such elections: and the retirement of councillors in the first and second years after such elections, shall in all respects be regulated by the provisions hereinbefore contained, with respect to the retirement of councillors to be elected at the first election to be held under and by virtue of this ordinance, in the first and second years after such election.

How the new elections are to take place and be governed.

Order in which councillors shall vacate their seats, or retire from office after such new elections.

Exception as to the cities of Quebec and Montreal.

XLIX. Provided always, and be it further ordained, &c., that nothing in this ordinance contained shall extend or be construed to extend to the cities of Quebec and Montreal, as by law incorporated.

The term "Governor of

L. And be it further ordained, &c., that the words *Governor of this Province*, wheresoever they occur in the foregoing enactments, shall be

understood as comprehending the Governor, Lieutenant-Governor, or person this Province" authorized to execute the office or functions of Governor of this Province. defined.

LI. And be it further ordained, &c., that this ordinance and the provisions herein contained, shall not cease or expire on the first day of November, which will be in the year of our Lord one thousand eight hundred and forty-two, but shall be and remain a permanent law, in full force, until the same shall be repealed or altered by competent legislative authority.

This ordinance to be permanent.

2. PARISH AND TOWNSHIP OFFICERS.

An Ordinance to prescribe and regulate the election and appointment of certain Officers, in the several Parishes and Townships in this Province, and to make other provisions for the local interests of the Inhabitants of these divisions of the Province. 4 Vict. Cap. 3.

WHEREAS it is expedient and necessary, for the attainment of the ends of good government and for the due execution of the laws, that certain officers charged with local duties, should be elected and appointed, in and for the several parishes and townships in this Province, and that other provisions should be made for the better protection, care, and management of the local interests of the inhabitants of these minor divisions of the Province:—Be it therefore ordained and enacted, &c., that it shall and may be lawful for each and every of the wardens to be appointed in the several districts in this Province, to be hereafter established, by warrant under his hand and seal, to authorize and require one of the justices of the peace or some other discreet and competent person in the said districts, respectively, within twelve days after the receipt of such warrant, to cause to be assembled, after notice in that behalf of eight days, to be posted up at two or more of the most public places in the local divisions hereinafter mentioned, the inhabitant householders of the several parishes and townships, and reputed parishes and townships, and of the unions of parishes or townships, or of reputed parishes and townships, to be established in the manner hereinafter provided, in the said districts, respectively, who shall and may have the qualifications hereinafter mentioned, on a certain day, and at some convenient place within such local divisions, respectively, for the purpose of electing the officers hereinafter mentioned, to serve in the said local divisions, respectively, till the second Monday in the month of January, which will be in the year of Our Lord one thousand eight hundred and forty-two, and until other officers shall have been elected or appointed, and sworn, in their places.

Preamble.

How and when the first election of parish and township officers shall take place.

II. And be it further ordained, &c., that the warden of each and every of the said districts shall and may, in like manner, from time to time, by warrant under his hand and seal, authorize and require one of the justices of the peace, or some other discreet and competent person, in the said districts, respectively; on the second Monday in the month of January, which will be in the year of our Lord one thousand eight hundred and forty-two, and on the same day in each succeeding year, to assemble and cause to be assembled, the inhabitant householders of the parishes and townships, and reputed parishes and townships, and unions of parishes or townships, or of reputed parishes or townships as aforesaid, in such districts, respectively,

How and when subsequent elections are to take place.

See Tables.

who shall and may have the qualifications hereinafter mentioned, at some convenient place, within the local divisions aforesaid, respectively, for the purpose of electing the officers hereinafter mentioned, to serve in the said local divisions, respectively, till the second Monday in the month of January in the next succeeding year, and until other officers shall have been elected or appointed, and sworn in their places.

Qualification
of electors.

III. And be it further ordained, &c., that the inhabitant householders to be assembled as aforesaid, shall be severally seized and possessed to their own use in freehold, or in *fief*, or in *roture*, or under a certificate or location ticket, derived from the authority of the Governor and council of this Province, of lands and tenements within such parish or township, or reputed parish or township, or union of parishes or townships, or of reputed parishes or townships as aforesaid, of the yearly value of forty shillings, sterling, or upwards, over and above all rents and charges payable out of or in respect of the same, or shall have become and be severally possessed, as lessees for a term not less than three years, of lands and tenements within such local divisions, respectively, at and for an annual rent or consideration of not less than five pounds, sterling, of which the year's rent or consideration next before the holding of such election, shall have been paid before the holding of such election; and the said inhabitant householders, to be assembled as aforesaid, shall also have been resident within such local divisions respectively, during one year next before such election.

After any rate
or assessment
shall be laid,
no person shall
have a vote,
unless he shall
have paid the
amount due by
him.

IV. Provided always, and be it further ordained, &c., that when and so soon as any rate or rates and assessment or assessments, shall be laid by competent authority, within any such parish or township, or reputed parish or township, or union of parishes or townships, or of reputed parishes or townships as aforesaid, no inhabitant householder shall be entitled to vote at the election of any of the officers hereinafter mentioned, or of any other officer, within such local division, unless he shall have been rated to and in respect of the rates and assessments to be laid as aforesaid, and unless he shall have paid the amount of all such rates and assessments as may have become due and payable by him before the holding of any such election.

Certain per-
sons incapable
of voting or of
being elected.
See Tables.

V. Provided also, and be it further ordained, &c., that no person shall be capable of voting or of being elected at any such election as aforesaid, who shall not be a male person of the full age of twenty-one years, and a natural born subject of Her Majesty, or a subject of Her Majesty naturalized by act of the parliament of the United Kingdom of Great Britain and Ireland, or by act of the Legislature of Lower Canada, or of Upper Canada, or of the Province of Canada.

Certain per-
sons who are
not to be elect-
ed; and others
not bound to
accept office.
See Tables.

VI. Provided also, and be it further ordained, &c., that no person being in holy orders, or being a minister or teacher of any dissenting or religious sect or congregation, nor any judge or clerk of any court of justice, nor any military, naval, or marine officer in Her Majesty's service, on full pay, shall be elected to or for any of the offices aforesaid; nor shall any licensed school master, or practising physician, nor any miller when the only miller in any mill, nor any person of sixty-five years of age or upwards, nor any person who shall have served any of the offices aforesaid, or paid a fine for not accepting the same, within the period of five years immediately preceding any such election, be held or bound without his consent, to accept or execute any of the said offices.

VII. Provided also, and be it further ordained, &c., that no person shall be capable of voting at any such election to be held as aforesaid, or of being elected at the same, who shall have been attainted for treason or felony, in any court of law, within any of Her Majesty's dominions. Persons attainted of treason or felony.

VIII. And be it further ordained, &c., that the justice of the peace, or other person by whom the inhabitant householders shall be assembled as aforesaid, shall preside at the meeting of such inhabitant householders, and shall have authority, upon the requirement of any candidate or elector, to administer any or all of the oaths contained in the schedule hereunto annexed, and shall have also the like authority to preserve order, enforce obedience, and commit for a contempt of his authority, as before the passing of the aforesaid act of the imperial parliament, intituled, *An act to make temporary provision for the government of Lower Canada*, belonged to any returning officer at an election of a member to serve in the legislative assembly of this Province. Who shall preside at the meetings of the electors and what authority he shall possess. See Tables.

IX. And be it further ordained, &c., that it shall be lawful for the said inhabitant householders, or of the majority of them, so assembled and qualified as aforesaid, within the local divisions aforesaid, or any of them, to choose one fit and proper person from among the inhabitants of such divisions, respectively, to be clerk of the local division in which such election shall be had; which clerk so elected shall continue in office till removed at any subsequent general meeting of the said inhabitant householders assembled and qualified as aforesaid: and it shall be the duty of the clerk to make and preserve minutes of the proceedings of the meetings of the local division for which he shall be clerk, and to transcribe the same in a book to be kept for that purpose, in which shall be entered and recorded all matters relating to such local division, which it shall appertain to his office to record; and the said clerk shall have the custody of all records, books, documents and papers belonging to the local division of which he shall be clerk as aforesaid: Provided always, that at the first meeting of such inhabitant householders it shall be lawful for the justice of the peace or other person presiding, to appoint a person to act as clerk, until the inhabitant householders shall have elected a clerk in the manner hereinbefore provided. A clerk to be elected for each local division. His tenure of office. Proviso, as to first meeting.

X. And be it further ordained, &c., that it shall be lawful for the said inhabitant householders, or the majority of them, assembled and qualified as aforesaid, within the local divisions aforesaid, or any of them, in like manner to choose from among the inhabitants of such local divisions, respectively, three fit and proper persons to serve the office of assessors for such local divisions, respectively, who shall assess all such rates and taxes as shall be imposed by any act or acts of the legislature of this Province, or by other competent authority, and be payable by the inhabitants thereof; and in like manner to choose one fit and proper person to be collector of the local division in which the said inhabitant householders shall be assembled as aforesaid; and it shall be the duty of such collector to demand and receive, from the inhabitant householders of the local division for which he shall have been elected collector as aforesaid, all rates and assessments due and payable within such local division; and he shall account for and pay over the monies so received by him, in such manner as shall be directed by law; and it shall be lawful for the said inhabitant householders, in like manner, to choose one or more fit and proper persons to be surveyor or surveyors of highways and bridges, two or more overseers of highways, one or more fit and proper Assessors and other officers to be elected for each local division. See Tables.

persons to be overseers of the poor, two or more fence-viewers and inspectors of drains, and one or more pound-keeper or pound-keepers, within the said local divisions, respectively : Provided always, that it shall be lawful to elect the same person or persons to fill one or more of the said offices of overseer of the poor, overseer of highways, and of fence-viewer and inspector of drains, at the same time, as to the majority of the said householders, assembled and qualified as aforesaid, shall seem expedient.

Proviso : one person may fill more than one of certain offices.

Officers elected to take an oath of office.

The oath.

XI. And be it further ordained, &c., that it shall be lawful for the justice of the peace or other person presiding at any such meeting of the inhabitant householders, at which the officers aforesaid shall have been elected, and such justice or other person is hereby authorized and required to administer an oath of office to each of the persons so elected as aforesaid, to the effect following, to wit :—" You A. B., do promise and swear, that you will faithfully, diligently and justly serve and perform the office and duties of _____, for _____, according to the best of your ability ; So help you God " : And every person who shall be elected to one of the offices aforesaid, shall, after having taken the said oath, be held to be legally appointed to such office and subject to the duties thereof.

Penalties on persons elected to office not accepting or not taking the oath.

XII. And be it further ordained, &c., that every person who shall be elected to any of the offices aforesaid, shall, within five days after notice of his election, accept such office and take the oath aforesaid, before the justice of the peace or other person who shall have presided at the meeting, or before the clerk of the parish or township, or reputed parish or township, or union of parishes or townships, or of reputed parishes or townships, as aforesaid, in which such election shall have been had, each and every of whom are hereby authorized to administer the same, and in default thereof shall forfeit and pay the sum of two pounds, current money of this Province, to be levied by distress and sale of his goods and chattels, in virtue of a warrant under the hand and seal of any justice of the peace for the district within which such election shall have taken place ; which warrant such justice is hereby empowered to grant, upon complaint or information before him, and after conviction of the person so making default, by confession or on the oath of one or more credible witness or witnesses, other than the informer ; and the said sum so forfeited shall be paid, one-half to the informer, and the other half into the hands of the treasurer of the district in which the said election shall have been had, towards the public stock of the said district.

How to be recovered and applied.

In cases where persons elected to office shall neglect to accept and take the oath, how others are to be appointed to serve in their place.

XIII. And it further ordained, &c., that it shall be lawful for any two or more of the justices of the peace for the district in which any person or persons so elected to office shall refuse or neglect to accept the same, and to take the oath of office as aforesaid, at a special session to be called for that purpose, by the justice of the peace or other person before whom the election shall have been held, or by the warden of the district, to appoint a fit and proper person or persons to serve in the place of the person or persons who shall have so refused or neglected ; and if the person or persons so appointed by such justices shall not, within five days after notice of his or their appointment as aforesaid, accept the office or offices to which he or they shall have been so appointed, and take the oath aforesaid, each and every of such persons severally shall forfeit the sum of two pounds, current money of this Province, to be levied, paid and applied, in the manner hereinbefore provided, in the case of the person elected to one of the offices aforesaid, refusing or neglecting as aforesaid : And in all cases where the

Penalty on per-

person or persons so appointed by such justices, shall refuse or neglect to accept the office or offices to which he or they shall have been so appointed, or to take the oath aforesaid, it shall be lawful for the said justices to appoint another person or persons in his or their place, and repeat such appointments until such office or offices shall be accepted and the oath aforesaid taken,—and to enforce their authority in this respect by the imposition of the penalty aforesaid, to be levied as aforesaid, in case of each successive refusal or neglect to accept such office or offices, or to take the oath aforesaid.

XIV. And be it further ordained, &c., that if any parish or township, or reputed parish or township, or union of parishes or townships, or of reputed parishes or townships, shall neglect or omit, at the meeting to be held for that purpose as aforesaid, to choose the said officers to be chosen as aforesaid, or any of them, it shall be lawful for any two or more of the justices of the peace for the district in which such neglect or omission shall have occurred, at a special session to be called for that purpose, by the justice of the peace or other person before whom the meeting shall have been held, or by the warden of the district, to appoint the said officers, or such of them as such local division as aforesaid shall have neglected or omitted to elect; and such officers so appointed shall hold their offices until others are chosen or appointed in their places, and shall have the same powers and be subject to the same duties and penalties, as if they had been duly chosen by the inhabitant householders: And if any of the persons so appointed by such justices as last aforesaid, shall refuse or neglect to accept the offices to which they shall have been appointed as last aforesaid, they shall severally incur the same penalties as are hereinbefore provided in the case of persons elected as aforesaid, refusing or neglecting to accept the offices to which they have been elected, to be levied, paid, and applied in manner aforesaid; and it shall be lawful for such justices to make successive appointments, in like manner as hereinbefore provided, until such offices shall have been accepted and the oath aforesaid taken.

sons so appointed refusing to accept or to take the oath.

In cases where the electors neglect to elect officers, how they are to be appointed.

Penalty on persons so appointed refusing to accept.

XV. And be it further ordained, &c., that if any of the said officers to be elected or appointed as aforesaid, shall, after having accepted the said offices, or any of them, die or remove from the parish or township, or reputed parish or township, or union of parishes or townships, or of reputed parishes or townships, as aforesaid, for which they have been elected or appointed, or shall become incapable of discharging the duties of the said offices, it shall be lawful for any two or more of the justices of the peace for the district in which such vacancy, removal or incapacity shall occur, at a special session to be called for that purpose, by the justice of the peace or other person before whom the then last meeting for the election of officers for the local division shall have been held, or by the warden of the district, to supply the place or places of such officers, respectively, in the same manner as is hereinbefore provided, in the case of a neglect or omission to elect such officers, and under and subject to the same provisions.

In case of the death, removal, &c. of any of the officers, how their places are to be supplied.

XVI. Provided always, and be it further ordained, &c., that it shall not be lawful to hold any meeting for the election of any of the officers aforesaid, in any parish or township, or reputed parish or township, in which the population shall not exceed the number of three hundred souls; and that any one or more of such parishes or townships, or reputed parishes or townships, in which the population shall not exceed that number, shall, by the warden of the district within which the same respectively shall be situated, in and by his warrant to be issued for holding meetings as aforesaid.

Parishes, &c. of less than 300 souls not to elect officers, but to be united to some other parish and disunited when their population ex-

ceeds that number.

See Tables.

said, be, for the purposes of this ordinance, united to some other parish or township, or reputed parish or township, adjacent thereto or to each other, as the said warden, in and by his said warrant, from time to time shall appoint,—and shall by the said warrant be in like manner disunited so soon as they shall severally contain a population exceeding three hundred souls, and shall then be entitled severally to hold and exercise all the corporate rights and powers which, by virtue of this ordinance, any parish or township, or reputed parish or township, is entitled to hold and exercise.

The collector of a parish, &c., to execute a bond to favor of the district treasurer, under a penalty.

Penalty for not so doing.

XVII. And be it further ordained, &c., that every person who shall be elected or appointed to the office of collector of a parish or township, or reputed parish or township, or union of parishes or townships, or of reputed parishes or townships, as aforesaid, shall, within eight days after notice of his election or appointment to that office, and before he enters on the duties thereof, make and execute, to and in favor of the treasurer of the district in which such local division shall be situated, for the time being, a bond, jointly and severally with two sureties to be approved by such treasurer, in the sum of two hundred pounds, current money of this Province, the condition of which bond shall be, that such collector shall duly pay and account for all monies that shall come into his hands as such collector, and faithfully discharge the duties of the said office : And if any person who shall be elected or appointed collector as aforesaid, shall not make and execute a bond, with sureties as aforesaid, within the time limited as aforesaid, such neglect or omission shall be held and taken to be a refusal to serve the said office, and shall subject the person so neglecting to the same penalty, as is hereinbefore provided in case of non-acceptance or refusal of the said office, to be recovered, paid and applied in the manner hereinbefore provided.

Each parish and township incorporated for civil purposes, with certain powers.

XVIII. And be it further ordained, &c., that each and every of the parishes and townships, and reputed parishes and townships, and unions of parishes and townships, or of reputed parishes and townships of this Province, as aforesaid, shall, for civil purposes, be and is hereby constituted a body corporate, and as such shall be capable of suing and being sued, and of purchasing and holding lands and tenements situated within the limits of such local division as aforesaid, for the use of the inhabitants thereof.

How actions are to be brought by or against any local division.

XIX. And be it further ordained, &c., that actions to be brought by any parish or township, or reputed parish or township, or union of parishes or townships, or of reputed parishes or townships, shall be brought in the name of such local division as aforesaid ; and in actions to be brought against any such local division, the service of process on the clerk of such local division shall be held to be legal and sufficient ; and it shall be lawful for any local division, in its corporate capacity, at a general or special meeting to be convened as hereinafter mentioned, by a resolution or resolutions in this behalf, to be adopted at such meeting and to be entered on the minutes of the proceedings thereof, to appoint an attorney or attorneys to act for and represent such local division.

The electors at their meetings may exercise their corporate powers, and make regulations, &c., for certain purposes.

XX. And be it further ordained, &c., that it shall be lawful for the inhabitant householders of the several parishes and townships, or reputed parishes or townships, or unions of parishes or townships, or of reputed parishes or townships, in this Province, at their general meetings, to be convened by one of the justices of the peace or other person as aforesaid, or at special meetings, to be convened in like manner by a justice of the peace or other person, by and under the authority of the Governor of this Province.

for the time being, to exercise the corporate powers with which they are invested as aforesaid, and to make such regulations, not repugnant to the law of the land or to any of the provisions of this ordinance, as they may deem proper for the management of any commons, lands or property which may belong to the said local divisions, respectively, in their corporate capacities, and for the establishment of pounds for impounding cattle therein, at such places as they may think fit, and for determining and ascertaining the sufficiency of all fences in such local divisions, respectively; and the said inhabitant householders, or the majority of them, assembled as aforesaid, shall also have power at the said meetings, to direct such sum of money to be raised on any such local divisions, respectively, as they may deem necessary for the prosecution or defence of any action in which the said local divisions, respectively, may be parties or interested; and also to impose such penalties on persons offending against any such rule or regulation established at such meetings, as they may think proper, not exceeding fifty shillings, current money of this Province, and to provide for the recovery of such penalties, and the application of them when recovered, in such manner as they may deem expedient: Provided always, that it shall not be lawful for any such local division to exercise any other powers of a corporation except such as are hereinbefore mentioned, or such as shall be specially conferred by the legislature of this Province, or such as shall be necessary for the due execution of the powers hereinbefore granted.

See Tables.

May raise money for the prosecution or defence of any action.

And may impose penalties.

Provido.

XXI. And be it further ordained, &c., that parish and township meetings to be held as aforesaid, shall be held in the day time only, between the hours of nine in the morning and four in the afternoon, and shall in no case be continued beyond two days.

Times and duration of meetings.

XXII. And be it further ordained, &c., that the minutes of the proceedings of every parish or township meeting to be held as aforesaid, shall be subscribed by the justice of the peace or other person presiding at the same, and by the clerk of the parish or township, or reputed parish or township, or union of parishes or townships, or of reputed parishes or townships, as aforesaid, in which such meeting shall be held, and the said minutes shall be deposited and filed in the office of such clerk, within two days after any such meeting.

By whom the minutes are to be subscribed and where deposited.

XXIII. And be it further ordained, &c., that when and so soon as the term for which any one of the officers aforesaid shall have been elected or appointed shall expire, or any such officer shall cease to hold his office, he shall, on demand, deliver to his successors, on oath to be made before a justice of the peace for the district in which the vacancy of office shall have occurred, all and every the books, muniments, accounts, documents and papers in his custody, as such officer, or in any way appertaining to his office.

Officers on ceasing to hold office, to deliver over official papers to their successors.

XXIV. And be it further ordained, &c., that upon the death of any of the officers to be elected or appointed as aforesaid, his heirs, executors, curators or administrators shall, in like manner, on demand, deliver to the successor in office of such officer, on oath to be made before a justice of the peace for the district in which such officer acted as such, all books, muniments, accounts, documents and papers in their possession, or in the possession of any of them, or within their power or control, or within the power or control of any of them, belonging to the office held by such deceased officer, or whereof he was in any manner possessed, in his official capacity.

Upon the death of any of the officers, their heirs, &c., to deliver over official papers.

Penalty on persons refusing to deliver over such papers.

XXV. And be it further ordained, &c., that if any person going out of office as aforesaid, or his heirs, executors or curators, shall refuse or neglect, on demand as aforesaid, to deliver up all such books, muniments, accounts, documents and papers as aforesaid, he or they shall forfeit to the parish or township, or reputed parish or township, or union of parishes or townships, or of reputed parishes or townships, as aforesaid, in which such refusal or neglect shall have occurred, the sum of fifty pounds, current money of this Province, to be recovered with costs at the suit of such local division in its corporate name, and to the use of such local division, in any court of record in this Province having original civil jurisdiction to the amount.

An action of revendication may also be maintained against any such persons.

XXVI. And be it further ordained, &c., that the successor of any person so going out of office as aforesaid, who shall refuse or neglect, or the heirs, executors, or curators of whom shall neglect, to deliver up all such books, muniments, accounts, documents and papers, on demand, as aforesaid, shall and may be entitled to and have process of attachment or *saisie revendication*, in any action of *revendication*, for the recovery thereof, in like manner as this remedy may be had and used in this Province, in ordinary cases, by the proprietor or alleged proprietor of goods and chattels for the recovery thereof,—and shall and may recover damages in the said action, for the wrongful detention of the said books, muniments, accounts, documents and papers, or any of them; which damages, when received by the plaintiff in any such action, shall by him be paid over to the treasurer of the district in which such wrongful detention shall have taken place, to make part of the public stock of the said district.

So much of 36 G. 3. c. 9, 2 Vict. c. 7, and 6 W. 4. c. 56, as relates to the appointment and election of certain local officers, repealed; and the powers vested in said officers to be vested in those to be elected or appointed under the present ordinance.

See notes on the acts here mentioned.

XXVII. And be it further ordained, &c., that from and after the first election and appointment of parish and township officers to be had and made as aforesaid, in pursuance of this ordinance, so much of an act of the legislature of this Province, passed in the thirty-sixth year of the reign of His late Majesty King George the Third, intituled, *An act for making, repairing and altering the highways and bridges within this Province, and for other purposes*, and so much of a certain ordinance of the legislature of this Province, passed in the second year of Her Majesty's reign, intituled, *An ordinance to amend the act passed in the thirty-sixth year of the reign of King George the Third, chapter nine, commonly called the road act*, or of any other law, as provides for the appointment, by the grand-voyer or other functionaries, of a surveyor and surveyors of highways and bridges in each parish, seigniority and township within his district, and for the election of overseers of highways in the parishes, seigniorities and townships in this province, in each year, and also so much of another act of the legislature of this Province, passed in the sixth year of the reign of His late Majesty King William the Fourth, intituled, *An act to repeal a certain act therein mentioned, and more effectually to remedy divers abuses prejudicial to agriculture*, as provides for the election of fence-viewers and inspectors of drains in the parishes, seigniorities and townships in this Province, and for the appointment of pound-keepers in the town of Three-Rivers, and in the borough of William Henry, and in certain villages in this Province, and in the divisions of the several parishes, seigniorities and townships of this Province, shall be and the same are hereby repealed; and all and every the powers, authorities and duties, which in and by the said three last mentioned laws have been and are vested in the surveyor and surveyors of highways and bridges, overseers of highways, fence-viewers,

inspectors of drains and pound-keepers, respectively appointed and elected, or to be appointed and elected under and in pursuance of the said three laws, shall from and after the first election or appointment of parish and township officers, to be had and made in pursuance of this ordinance, become and be vested in and imposed on the surveyor or surveyors of highways and bridges, the overseers of highways, fence-viewers, inspectors of drains and pound-keepers, to be elected or appointed in pursuance of the provisions in this ordinance contained, to be by them respectively exercised and fulfilled according to law.

XXVIII. And be it further ordained, &c., that every person authorized by law to make an affirmation, instead of taking an oath, shall make such affirmation in every case in which by this ordinance an oath is required to be taken; and if any person taking any oath required by this ordinance, or making any affirmation instead of taking such oath, shall wilfully swear or affirm falsely, such person shall be deemed guilty of perjury, and shall be punished accordingly.

Any person wilfully swearing or affirming falsely, to be guilty of perjury.

XXIX. Provided always, and be it further ordained, &c., that nothing in this ordinance contained shall extend, or be construed to extend, to those parts of the parishes of Quebec, St. Roch and Montreal, which are comprehended within the cities of Quebec and Montreal, respectively.

Parts of certain parishes not to be affected by this ordinance.

XXX. And be it further ordained, &c., that the words *Governor of this Province*, wheresoever they occur in this ordinance, shall be understood as meaning and comprehending the Governor, or the person authorized to execute the commission of Governor within this Province, for the time being.

The term "Governor of this Province" defined.

XXXI. And be it further ordained, &c., that this ordinance and the provisions herein contained, shall not cease or expire on the first day of November, which will be in the year of Our Lord one thousand eight hundred and forty-two, but shall be and remain a permanent law, and in full force until the same shall be repealed or altered by competent legislative authority.

This ordinance to be permanent.

SCHEDULES.

OATHS TO BE ADMINISTERED TO VOTERS.

(No. 1.)

"You swear (or affirm, *as the case may be*,) that your name is
 " that your addition (profession *or* trade) is
 " that the place of your abode is at
 " in the that you have been resident within the
 " of during the year next
 " preceding this election, that you are of the full age of twenty-one years,
 " and that you have not already voted at this election : So help you God."

Oaths referred to in section 8.

(No. 2.)

"You swear (or affirm, *as the case may be*,) that your name is
 " that your addition is
 " you are an inhabitant householder resident in the township (or other
 " place, *as the case may be*,) of
 " seized and possessed to your own use, of a land and tenement being in
 " the of adjoining on the
 " one side to the land occupied by which land

"and tenement, so possessed by you, is of the clear yearly value of forty shillings sterling, over and above all rents and charges payable out of or in respect of the same : So help you God."

(No. 3.)

"You swear (or affirm, *as the case may be*,) that your name is that
 "that your addition is that
 "you are an inhabitant householder resident in the
 "of that you are possessed, as lessee for a term of not
 "less than three years, of a land and tenement being in the
 "of adjoining on one side to the land or tenement
 "occupied by which land and tenement is so pos-
 "sessed by you, at and for an annual rent and consideration of five pounds
 "or upwards, of which the rent or consideration for the year next before
 "the holding of this election has been paid : So help you God."

(No. 4.)

"You swear (or affirm, *as the case may be*,) that your name is
 "your addition is and your
 "place of abode is in the of that
 "you have been rated and assessed as an inhabitant householder of
 "and have paid the amount at which you are so rated
 "and assessed : So help you God."

3. INCORPORATION OF QUEBEC.

3 & 4 Vict.
Cap. 35.

An Ordinance to incorporate the City and Town of Quebec.

*Note.—This ordinance, with the exception of sections 3, 4 and 52, is the same as 3 & 4 Vict. cap. 36, incorporating Montreal,—save that the words in the margin to which this mark * is affixed are to be substituted for those bearing a like mark in the text.*

Preamble.
* Montreal.

The city and town constituted a body corporate and politic, with certain powers.
* Montreal.
* Montreal.

See Tables.

WHEREAS for the better protection, care and management of the local interests of the inhabitants of the city and town of Quebec,* and for the municipal government and the improvement thereof, it is expedient that the said city and town be incorporated:—Be it therefore ordained and enacted, &c., that the inhabitants of the said city and town of Quebec,* and their successors, inhabitants of the same, shall be, and they are hereby constituted a body corporate and politic, in fact and in name, by and under the name, style and title of *The mayor, aldermen and citizens of the city of Quebec*,* and as such shall have perpetual succession and a common seal, with power to break, renew, change and alter the same at pleasure; and shall be capable of suing and being sued, and of impleading and being impleaded, in all courts of law and equity and other places, in all manner of actions, causes and matters whatsoever, and of accepting, taking, purchasing and holding goods and chattels, lands and tenements, real and personal, moveable and immoveable estates and of granting, selling, alienating, assigning, demising and conveying the same, and of entering into and becoming a party to contracts, and of granting and accepting any bills, bonds, judgments, or other instruments or securities for the payment or securing of the payment of any money borrowed or lent, or for the performance or securing the performance of any other duty, matter or thing whatsoever.

II. And be it further ordained, &c., that the tract of land which, in and What tract of
by a certain proclamation of His Excellency Sir Alured Clarke, Lieutenant- land is to con-
Governor of the Province of Lower-Canada, issued under the great seal of stitute and be
the said Province, and bearing date the seventh day of May, in the year of called the city.
Our Lord one thousand seven hundred and ninety-one, was and is described See Tables.
as being comprehended within the city and town of Quebec,* and which it * Montreal.
was therein declared should be thenceforward called by that name, shall
from and after the passing this ordinance, constitute and be and be called * Montreal.
*The city of Quebec.**

* *That part of the proclamation hereby intended, which fixes the boundaries of the city of Quebec and of the upper and lower towns thereof, is in the following words:—*“and that the first of the said cities, to be called (as heretofore) the city and town of Quebec, shall comprehend all that tract or promontory of land (being part and parcel of the aforesaid county of Quebec) between the rivers Saint Lawrence and Saint Charles, bounded in the rear by a right line running along the easterly front of the convent called the General Hospital, and continued from river to river; and that the said city and town of Quebec be, and the same is hereby declared to be divided into two parts to be called respectively, the *Lower Town* and the *Upper Town*; and that the said Lower Town shall comprehend all that part of the said tract or promontory of land situate below the hill called Cape Diamond, and the fortifications and high ground beyond them, including both sides of the road passing the Intendant's Palace and Saint Roc, until the said road shall meet the aforementioned rear-line continued from the easterly front of the General Hospital aforesaid,—together with the ground up mountain street, on the easterly side thereof, as high as the ground of the Bishop's palace, not including the same, and on the westerly side of Mountain street, as high as the alley leading to the old chateau of Saint Lewis, from the head of the steps opposite to the gate of the said Bishop's Palace; and that the said upper town shall comprehend all the rest of the said tract or promontory of land within the limits above described for the city of Quebec.”

III. And be it further ordained, &c., that for the purposes of this ordi- The city di-
nance, the said city of Quebec shall be and is hereby divided into six wards, vided into
to be called respectively, St. Lewis' ward, Palace ward, St. Peter's ward, wards.
Champlain ward, St. Roch's ward, and St. John's ward.

IV. And be it further ordained, &c., that the boundaries and limits of Boundaries
the said six wards of the city of Quebec, shall be as follows, that is say:— and limits
thereof.

1. Saint Lewis ward shall comprise all that part of the upper town, St. Lewis
within the fortifications and south of a line drawn from Prescott gate to ward.
Saint John's gate, along the middle of Mountain street, Buade street,
Fabrique street and Saint John street.

2. Palace ward shall comprise all that part of the upper town within the Palace ward.
fortifications, and not included in St. Lewis ward.

3. Saint Peter's ward shall comprise all that part of the lower town, St. Peter's
bounded on the south by a line drawn down the middle of *Sous-le-fort* ward.
street, and prolonged in the same direction to the river Saint Lawrence at
the one end and to the cliff under the castle of Saint Lewis at the other,
and on the west by the eastern limit of the parish of Saint Roch.

4. Champlain ward shall comprise all that part of the lower town lying Champlain
between Saint Peter's ward and the limits of the said city. ward.

St. Roch's ward.

5. Saint Roch's ward shall comprise all that part of the parish of Saint Roch, which lies within the limits of the said city of Quebec.

St. John's ward.

6. Saint John's ward shall comprise all that space bounded by Saint Roch's ward, the fortifications, the limits of the said city, and the *cime du cap* on the bank of the Saint Lawrence.

A mayor, aldermen and councillors to be elected, to be called the council of the city.

V. And be it further ordained and enacted, that there shall be appointed and elected, in the manner hereinafter mentioned, one fit person who shall be and be called the *Mayor* of the said city of Quebec,* and a certain number of fit persons who shall be and be called *Aldermen* of the said city, and a certain number of other fit persons who shall be and be called *Councillors* of the said city; and such mayor, aldermen and councillors, for the time being, shall be and be called the council of the said city.

* Montreal.

And an assessor for each ward.

VIII. And be it further ordained, &c., that it shall be lawful for the said council of the said city, from time to time, and at such times as they may deem fit, previous to the said first day of December, in the year of Our Lord one thousand eight hundred and forty-two, to appoint one assessor for each of the said wards of the said city, respectively, who shall continue in office for such period of time as by the said council shall be fixed and limited, not extending beyond the day and year last mentioned; and it shall also be lawful for the said council to prescribe the duties of such assessors.

But see Tables.

Qualification for an alderman.

* Montreal.

IX. And be it further ordained, &c., that no person shall be capable of being appointed or elected an alderman of the said city of Quebec,* unless he shall have been a resident householder within the said city, for one year next before such appointment or election, and unless he shall be seized or possessed, to his own use, of real or personal estate, or both, within the said city, after payment or deduction of his just debts, of the value of one thousand pounds, currency.

Qualification for a councillor.

* Montreal.

X. And be it further ordained, &c., that no person shall be capable of being appointed or elected a councillor of the said city of Quebec,* unless he shall have been a resident householder within the said city, for one year next before such appointment or election, and unless he shall be seized or possessed, to his own use, of real or personal estate, or both, within the said city, after payment of his just debts, of the value of five hundred pounds, currency.

Qualification for the voters at the election of councillors.

* Montreal.

XI. And be it further ordained, &c., that the councillors of the said city of Quebec* at the periods hereinafter appointed, shall be chosen by the majority of votes of such persons, being inhabitant householders within the ward for which such election shall be had, as shall severally be possessed, at the time of the election, of a dwelling-house within the said ward, held by them respectively in freehold, or for a term of years, or for a term not less than one year, and who shall have been resident within the said city, during one year or more, previous to any such election, and who shall have resided within the particular ward for which such election shall be had, not less than three months next before such election; and part of a dwelling-house in which an inhabitant shall reside as a householder, and not as a boarder or lodger, and having an outer door by which a separate communication with the street may be afforded, shall be considered a dwelling-house, within the meaning of this enactment: Provided always, that when and so soon as any rate or rates, assessment or assessments shall be laid by and under the authority of this ordinance, no such inhabitant householder shall be entitled to vote at the election of councillors as aforesaid, unless he shall

Proviso: after any rate is laid, none but rated inhabitants to vote.

XXI. And be it further ordained, &c., that if any person shall knowingly swear falsely, as to any of the particulars of his alleged qualification, in pursuance of the preceding nineteenth section of this ordinance, or if he shall knowingly swear falsely, in taking the oath prescribed by the preceding twentieth section of this ordinance, he shall be deemed guilty of wilful and corrupt perjury, and suffer the pains and penalties provided by law in cases of wilful and corrupt perjury. Knowingly swearing falsely to be wilful and corrupt perjury.

XXII. And be it further ordained, &c., that if at any election of a councillor or councillors as aforesaid, any person shall be elected a councillor for more than one ward of the said city, he shall, within three days after notice thereof, make his option, or on his default the mayor of the said city shall declare, for which one of the said wards such person shall serve as a councillor; and thereupon such person shall be held to have been elected in that ward only, and in no other. No person to serve as a councillor for more than one ward.

XXV. And be it further ordained, &c., that on the ninth day of December in the year one thousand eight hundred and forty-two, and in every succeeding year, the members of the said council shall elect from persons qualified to be councillors, by a majority of votes, two persons who shall be and be called *Auditors* of the said city of Quebec;* and every such auditor shall continue in office until the ninth day of December in the year following his election: Provided always, that in every such election of auditors, no member of the said council shall vote for more than one person to be such auditor as aforesaid; and provided also, that no member of the said council, nor the clerk, nor the mayor of the said city, shall be capable of being elected an auditor as aforesaid. Two auditors to be elected annually by the council.
* Montreal. See Tables. Proviso.

XXVIII. And be it further ordained, &c., that no person appointed or elected to be mayor, alderman, councillor, auditor or assessor, as aforesaid, shall be capable of acting as such, except in administering the oaths hereinafter mentioned, until he shall have made and subscribed before any two or more of such aldermen or councillors (who are hereby respectively authorized and required to administer the said oaths to each other,) the oath of allegiance to Her Majesty, Her Heirs and Successors, and also an oath in the words or to the effect following, that is to say;—"I, A. B., having been appointed (*or elected as the case may be*) mayor (*or alderman, councillor, auditor, or assessor, as the case may be*), for the city of Quebec,* do sincerely and solemnly swear, that I will faithfully fulfil the duties of the said office, according to the best of my judgment and ability; and that I am seized or possessed for my own use, of real or personal estate, or both, in the said city of Quebec,* after the payment or deduction of my just debts, of the value of £ , and that I have not fraudulently or collusively obtained the same, or a title to the same, for the purpose of qualifying myself to be appointed (*or elected as the case may be*) mayor (alderman, councillor, auditor, *or assessor, as the case may be*) as aforesaid: So help me God." The mayor and other members of the council, and the auditors and assessors, to take the oath of allegiance, and also an oath of office and qualification.
* Montreal.
* Montreal.

XXIX. And be it further ordained, &c., that every person duly qualified, who shall be appointed or elected to the office of alderman, councillor, auditor or assessor of the said city, and every person, alderman or councillor, who shall be appointed or elected to the office of mayor of the said city, shall accept the office to which he shall have been so appointed or elected, or shall in default thereof pay to the treasurer of the said city, to and for the use of the said city, a fine as follows, that is to say;—for non- To pay a fine for non-acceptance of office.

Manner of proceeding at the said elections.

How an election is to be determined if there be an equal number of votes for two or more candidates. The poll lists to be delivered to the city clerk, and to be open to inspection. Fee.

In what ward an elector is to vote.

Lists of persons qualified to vote to be made out.

And until then every person desirous of voting, to take a certain oath, if required.

After the lists are made out, every person, before voting, to produce a certificate of his qualification; and if required, to make oath of his identity, &c.

XVII. And be it further ordained, &c., that at elections of councillors as aforesaid, the poll shall be opened at nine o'clock in the forenoon, and shall continue open till four o'clock in the afternoon of the same day; and the name of each elector voting at such election shall be written in poll lists to be kept at such election by the officer or person holding the same; and after finally closing the poll at any such election, the officer or person by whom the same shall be held, shall forthwith proceed publicly to declare the number of votes given for each candidate or person for whom votes shall have been taken, and shall declare the person or persons having the majority of votes in his or their favour, to be duly elected councillor or councillors as aforesaid; and if there should be, at the final closing of the poll as aforesaid, an equal number of votes polled for two or more persons to be councillors as aforesaid, it shall be lawful for the officer or person holding such election, and he is hereby required, whether otherwise qualified or not, to give a vote for one or other of the persons having such equality of votes, in order to give a majority to one of them and determine the election; and the poll lists kept at such elections, shall, by the officers or persons holding the same, be delivered, within three days after the conclusion of every such election, to the clerk of the city, to remain in his office, where they shall be open to inspection by any elector, on the payment of a fee of one shilling.

XVIII. And be it further ordained, &c., that persons entitled to vote at the election of councillors as aforesaid, shall vote within the particular ward in which the property constituting their qualification to vote, shall be situated, and not otherwise; and if any such person shall be possessed of property entitling him to vote in two or more wards, he shall be entitled to vote in that ward only in which he may reside.

XIX. And be it further ordained, &c., that it shall be lawful for the said council of the said city, by a bye-law or bye-laws to be enacted in this behalf, to make provision for the making of lists and a registration of all persons qualified to vote at elections of councillors and other city officers in the said city, whereby the right to vote at such elections may be determined; and until such provision shall have been made by such bye-law or bye-laws, every person desirous of voting at any election of councillors as aforesaid, shall, before he be permitted to vote, if required by the officer or person holding any such election, or by any person qualified to vote at the same, make oath to the particulars of his qualification, and that he has not before voted at such election; which oath the officer or person holding such election is hereby authorized and required to administer.

XX. And be it further ordained, &c., that after provision shall have been made by a bye-law or bye-laws as aforesaid, for the making of lists or a registration of persons qualified to vote, whereby the right in individuals to vote may be determined as aforesaid, every person desirous of voting at any election of a councillor or councillors as aforesaid, shall, before he be permitted to vote, produce a certificate, under the hand of the proper officer, of his qualification, pursuant to any such bye-law, and shall, if required by the officer or person holding such election, or by any person qualified to vote at the same, take the following oath, which the said officer or person holding such election is hereby authorized and required to administer; that is to say:—"I do swear that I am the person described in the certificate that I now produce, and that I have not before voted at this election: So help me God."

council and not being city-clerk, to be the treasurer of the said city, one or more fit person or persons, not being of the council, to be clerk or clerks of the markets of the said city, and one surveyor of highways, streets and bridges, and such number of overseers of highways, streets and bridges, as they may deem necessary; and one collector for each of the wards of the said city, one or more pound keeper or pound keepers for the said city, and such other officers as they may think necessary to enable them to carry into execution the powers vested in them by this ordinance,—and to prescribe and regulate the duties of all such officers, respectively, and at their pleasure to remove any such officer and appoint another in his place; and the said council shall take such security for the due execution of the offices of city clerk, treasurer or other officer, as they shall think proper, and shall and may grant and allow to the city-clerk, treasurer and other officers to be appointed as aforesaid, such salary, allowance or other compensation for their services, as they may think fit.

Security.

XXXIII. And be it further ordained, &c., that the treasurer of the said city shall not pay any monies in his hands as such treasurer, otherwise than upon an order in writing of the council of the said city, signed by three or more members of the said council, and countersigned by the clerk of the city, or on the order in writing of a court of justice or magistrate, authorized by law to make such order.

Upon what authority the treasurer is to pay the monies in his hands.

XXXIV. And be it further ordained, &c., that the clerk, treasurer and other officers of the said city, appointed by the council as aforesaid, shall respectively, at such times during their continuance in office, and within three months after they shall respectively cease to be in office, and in such manner as the said council shall direct, deliver to the said council, or to such person as they shall authorize to receive the same, a true account in writing of all matters committed to their charge by virtue or in pursuance of this ordinance, and also of all monies which shall have been by them respectively received, by virtue or for the purposes of this ordinance, and how much thereof shall have been paid and disbursed, and for what purposes, together with proper vouchers for such payments: And every such officer shall pay all such monies as shall remain due from him, to the treasurer for the time being, or to such person as the said council shall authorize to receive the same: And if any such officer shall refuse or wilfully neglect to deliver such account or the vouchers relating to the same, or to make payment as aforesaid, or shall refuse or wilfully neglect to deliver to the said council, or to such person as they shall authorize to receive the same, within three days after being thereunto required by the said council, all books, documents, papers and writings in his custody or power as such officer as aforesaid, then and in every such case, on complaint made on behalf of the said council, by such person as they shall authorize for that purpose, of any such refusal or wilful neglect as aforesaid, to any justice of the peace for the district or county wherein such officer shall reside or be, such justice of the peace shall be and is hereby authorized and required to issue a warrant under his hand and seal, for bringing any such officer before any two justices of the peace for such district or county; and upon the said officer not appearing, or not being found, it shall be lawful for the said justices to hear and determine the matter in a summary manner; and if it shall appear to such justices that any monies remain due from such officer, such justices may and they are hereby authorized and required, on non-payment thereof, by warrant under their hands and seals, to cause such

The said officers to render detailed accounts, when and as the council shall direct.

And settle all balances due from them.

And in case of refusal or wilful neglect so to do, how they are to be proceeded against.

acceptance of the office of alderman or councillor, a fine of fifty pounds,—for non-acceptance of the office of auditor or assessor, a fine of fifty pounds,—and for non-acceptance of the office of mayor, a fine of one hundred pounds: and every such fine, if not duly paid, shall be levied under the authority of a * warrant of any justice of the peace, having jurisdiction within the said city, who is hereby required, on the application of the said council of the said city, to issue the same, by distress and sale of the goods and chattels of the person so refusing to accept such office, with the reasonable charges of such distress: And every person so elected shall accept such office by taking the oath of allegiance and making and subscribing the declaration hereinbefore mentioned, within four days after the notice of his election, and in default thereof shall be liable to pay the fine aforesaid, as for his non-acceptance of such office, and such office shall thereupon be deemed to be vacant, and shall be filled up by a new election, to be made in the manner hereinbefore prescribed: Provided always, that no person disabled by lunacy or imbecility of mind, shall be liable to such fine as aforesaid; and provided also, that every person so elected to any such office, who shall be above the age of sixty-five years, or who shall already have served such office, or paid the fine for not accepting such office, within five years next preceding the day on which he shall be so re-elected, shall be exempted from accepting or serving the same office, if he shall claim such exemption within five days after notice of his election: And provided also, that no military, naval or marine officer in Her Majesty's service, on full pay, nor the members of the legislature of this Province, the members of the executive council, the surveyor general, the adjutant general of militia, the provincial secretary, the deputy post master general and his deputies, custom house officers, the sheriffs and coroners, the clerks and commissioned officers of the legislature and of the executive council, and school masters, shall be held or bound to accept any such office as aforesaid, or any other office in the said city.

Cases in which the mayor, &c. shall become disqualified.

And in case of absence to pay a fine.

The mayor to be a justice of the peace and to receive a salary.
* Montreal.

The council to appoint a city clerk, treasurer and other officers, and to

XXX. And be it further ordained, &c., that if any person holding the office of mayor, alderman or councillor, shall be declared bankrupt, or shall apply to take the benefit of any act for the relief of insolvent debtors, or shall compound by deed with his creditors, or being mayor shall be absent from the said city for more than two calendar months, or being an alderman or councillor for more than six months, at one and the same time, (unless in case of illness,) then, and in every such case, such person shall thereupon immediately become disqualified, and shall cease to hold such office of mayor, alderman or councillor as aforesaid; and in the case of such absence shall be liable to the same fine as if he had refused to accept such office, to be recovered and applied in the same manner.

XXXI. And be it further ordained, &c., that the mayor of the said city for the time being, shall be a justice of the peace for the city and district of Quebec;* and it shall be lawful for the said common council, from and out of the monies belonging to the said city, to grant and allow to the said mayor for the time being, in lieu of all fees and perquisites, such salary not exceeding three hundred pounds and not less than one hundred pounds, as the said council shall think fit.

XXXII. And be it further ordained, &c., that it shall be lawful for the said council of the said city, from time to time as occasion may require, to appoint a fit and proper person, not being a member of the council, to be clerk of the said city, and another fit person, not being a member of the said

his absence, such alderman, or in the absence of all the aldermen, such councillor, as the members of the council so assembled shall choose to be chairman of any such meetings, shall preside at the same; and in case of an equality of votes, the mayor or chairman presiding shall have a casting vote.

XXXVII. And be it further ordained, &c., that there shall be in each year four quarterly meetings of the said council, which shall be held on the following days, that is to say;—on the second Monday of the months of December, March, June and September in each and every year; and the said meetings shall not, at any one time, be held for a longer period than three successive days in which Sunday shall not be included.

XXXVIII. And be it further ordained, &c., that it shall be lawful for the mayor of the said city to call a special meeting of the said council, when and as often as he may deem it proper, after three days previous notice thereof; and in case the said mayor should refuse to call any such meeting, after a requisition for that purpose signed by five or more members of the said council, it shall be lawful for such five or more members to call a meeting of the said council, after three days previous notice, which notice shall specify the business for which the proposed meeting is to be held and shall be signed by the said members; and in all cases of such special meetings as aforesaid, a summons to attend the council, specifying the business to be transacted at such meetings and signed by the city clerk, shall be left at the usual place of abode of every member of the said council, three days at least before such meeting.

XXXIX. And be it further ordained, &c., that minutes of the proceedings of all meetings to be held as aforesaid, shall be drawn up and fairly entered in a book to be kept for that purpose, and shall be signed by the mayor, alderman, or councillor presiding at such meeting; and the said minutes shall be open to the inspection of all persons qualified to vote at the election of councillors, on payment of a fee of one shilling; and the said meetings shall be held with open doors.

XL. And be it further ordained, &c., that it shall be lawful for the said council, to appoint from and out of the members composing such council, such and so many committees, consisting of such number of persons, as they may think fit for the better transaction of the business before such council, and for the discharge of such duties, within the scope of their powers, as may by the said council be prescribed, but subject in all things to the approval, authority and control of the said council.

XLI. And be it further ordained, &c., that it shall be lawful for the said council of the said city, at a meeting or meetings of the said council, composed of not less than two-thirds of the members thereof, to make such bye-laws as to them shall seem meet, for the good rule, peace, welfare and government of the said city,—and for raising, assessing and applying such monies as may be required for the execution of the powers with which the said council is hereby invested, and for maintaining in the said city a good and efficient system of police, in such manner as may by law be provided, either by imposing tolls and rates to be paid in respect of any public works within the said city, or by means of a rate or assessment, to be assessed and levied on real or personal property, or both, within the said city, or upon the owners or occupiers thereof, in respect of such property, provided that such assessment shall not, in any one year, exceed one shilling in the pound

on the assessed value of the property lying and being within the said city, or by imposing a duty or duties on sales by auction, not in any case to exceed one per cent on such sales, to be paid by the purchaser, and on the keepers of houses of public entertainment and the retailers of spirituous liquors, and on hawkers, pedlars and petty chapmen within the said city ; and to impose by such by-laws, such fines not exceeding five pounds, and such imprisonment not exceeding thirty days, as they may deem proper for enforcing the same.

And may impose fines and imprisonment.

The Governor may disallow any bye-law.

See Tables.

Proviso.

Certain powers exercised by the magistrates of the district to be vested in the council.
* Montreal.
* Montreal.

* Montreal.

See Tables.

* Montreal.

* Montreal.

* Montreal.

* Montreal.

* Montreal.

All rules, orders, &c., concerning the said several matters, to remain in

XLII. Provided always, and be it further ordained, &c., that a copy of every bye-law to be made by virtue of this ordinance, shall be transmitted with all convenient speed after the making thereof, to the Governor of this Province for the time being ; and it shall be lawful for the said Governor, by and with the advice of the executive council of this Province, within three months from and after the receipt of such copy, to disallow any such bye-law ; and such disallowance shall, without delay, be signified to the mayor of the said city, and thenceforward such bye-law shall be void and of no effect : Provided also, that all bye-laws repugnant to any law of the land, or to any act of the legislature of this Province, shall be null and void.

XLIII. And be it further ordained, &c., that all and every the powers and authorities which in and by any of the acts of the legislature of this Province, and in and by any ordinance or law in force in this Province, have been and are vested in the court of quarter sessions of the peace for the district of Quebec* and in any special sessions of the peace for the same district, and in the justices of the peace for the said district of Quebec,* or any of them, for, touching or concerning the laying out, making, erecting, keeping in repair and regulating the highways, bridges, streets, squares, lanes, causeways, pavements, drains, ditches, embankments, water-courses, sewers, market-houses and weigh-houses, and other public erections and works in the said city of Quebec,* or any of them,—and for, touching or concerning the dividing of the said city into divisions, and the appointment of overseers of highways, streets and bridges, in the said city,—and for, touching and concerning the laying, imposing, raising, levying, collecting, applying, paying and accounting for, a rate or rates of assessment upon occupiers of lands, lots, houses and buildings, in proportion to the annual value thereof, within the said city of Quebec,*—and for, touching or concerning the making of rules and regulations of police within the said city of Quebec,*—and for, touching and concerning the making of rules and regulations to restrain, rule and govern the apprentices, domestics, hired servants and journeymen, and for the conduct of masters and mistresses towards their said apprentices, domestics, hired servants and journeymen, within the said city of Quebec,*—and for and touching the raising, receiving, appropriation and application of any public monies, by assessment or otherwise, within the said city,—and for, touching or concerning the improvement, cleanliness, health, internal economy and local government of the said city of Quebec,*—shall, from and after the passing of this ordinance, become and be vested in and exercised by the said council of the said city of Quebec.*

XLIV. Provided always, and be it further ordained, &c., that all and every the rules, orders, regulations and acts of authority, for, touching or concerning the several matters in the next preceding section of this ordinance, which may be in force at the time of the passing of this ordinance, shall continue, be and remain in full force and virtue, until the same shall

be rescinded, repealed or altered, by the said council of the said city of Quebec,* under the authority of this ordinance, or by other competent legal authority.

* Montreal.

XLV. And be it further ordained, &c., that all and every the public monies raised by assessment or otherwise, in the said city of Quebec,* which at the time of the passing of this ordinance, shall be in the hands of the road treasurer of the said city, and all monies which shall be due or payable on account of any assessment or composition for statute labour, or for the use of the said city, and all monies appropriated by law for the watching and lighting of the said city, and all real and personal property within the said city, now subject to the management, control or authority of the justices of the peace for the said district of Quebec,* or any of them, and all and every the books of assessment, receipts, accounts of the treasurers and road treasurers of the said city, plans, titles, documents and papers relating to the said city and of a public nature, shall, from and after the passing of this ordinance, become and be subject to the power, authority, order and control of the said council of the said city, and shall be paid and delivered up by the officers and persons in whose custody or possession they may now be, to such person or persons, and at such time and times, and in such manner, as by the said council may be ordered and directed.

The council to have the control of all public monies, property, papers, &c., now subject to the authority of the magistrates.

* Montreal.

See Tables.

* Montreal.

XLVI. Provided always, and be it further ordained, &c., that all and every the public monies raised or to be raised by assessment as aforesaid, and all monies due and payable as aforesaid, as well as all other monies hereafter to be raised by and under the authority of this ordinance, shall be charged and chargeable with the debts which have been legally contracted by the late corporation of the city of Quebec* and remain due and unpaid, and with the debts, sum and sums of money which have been or may be incurred and become payable from and out of the public monies raised or to be raised for public uses within and for the said city and town of Quebec,* or either of them, under the provisions of law in this behalf made, or by or under the authority of the justices of the peace for the district of Quebec* or any of them; and all such debts and sums of money shall be payable from and out of the monies aforesaid.

The funds of the corporation made chargeable for debts now due or to be incurred for the uses of the city.

* Montreal.

* Montreal.

* Montreal.

XLVII. And be it further ordained, &c., that it shall not be lawful for the said council of the said city of Quebec,* to borrow on the credit of the said city, at one time, any sum or sums of money exceeding the aggregate amount of the revenues of the said city for five years; nor shall any sum or sums of money be so borrowed while the said city shall be in debt to such aggregate amount, unless the said council shall be authorized in this behalf, by an act of the legislature of this Province.

To what amount the council may borrow money on the credit of the city.

* Montreal.

XLVIII. And be it further ordained, &c., that so much of a certain act passed in the thirty-sixth year of the reign of His late Majesty King George the Third, intituled, *An act for making, repairing and altering the highways and bridges within this Province, and for other purposes*, as provides for the appointment of assessors and of a road treasurer for the said city of Quebec,* and also a certain act of the legislature of this Province, passed in the ninth year of the reign of His late Majesty King George the Fourth, intituled, *An act to increase the number of assessors for the cities of Quebec and Montreal*, and also so much of a certain other act of the legislature of this Province, passed in the thirty-ninth year of the reign of His late Majesty King George the Third, intituled, *An act to*

So much of the acts 36th and 39th Geo. 3. and 9th Geo. 4 c. 16. as provides for the appointment of assessors and a road treasurer and surveyor repealed.

* Montreal.

See Tables.

- amend an act passed in the thirty-sixth year of His present Majesty's reign, intituled, "An act for making, repairing and altering the high ways and bridges within this Province, and for other purposes,"* and provides for the appointment of a surveyor of the highways, streets, lane and bridges in the said city of Quebec,* by the Governor, Lieutenant-Governor, or person administering the government of this Province, shall from and after the passing of this ordinance be, and the same are hereby repealed; and all and every the powers, authority and duties which, in and by the said acts and any other act or acts of the legislature of this Province, were and are vested in and imposed on the said assessors appointed or to be appointed in pursuance of the provisions of the said act passed in the thirty-sixth year aforesaid, and the power and duties of the said road treasurer and of the said surveyor of highways, streets and bridges in the said city, appointed or that might be appointed under the said act passed in the thirty-sixth year aforesaid, shall from and after the passing of this ordinance, become and be vested in and imposed on the assessors to be elected and appointed in pursuance of this ordinance, and on the treasurer of the said city, and on the surveyor of highways for the said city of Quebec,* to be appointed under the same authority, respectively.

XLIX. Provided always and be it further ordained, &c., that nothing in this ordinance contained, shall extend or be construed to extend to the repeal of any law, or the provisions of any law, conferring power or authority on the court of quarter sessions for the district of Quebec,* or on the justices of the peace for the said district, or any of them, touching or in respect of all or any of those parts of the parish of Quebec* not comprised in the city and town of Quebec;* and that all such power and authority shall continue to subsist, in respect of such parts of the said parish and the inhabitants thereof, as if this ordinance had not been passed.

LI. And be it further ordained, &c., that every officer who may be in or entitled to any office at the time of the passing of this ordinance, under appointments by the executive government of this Province, to which office, by the provisions herein contained, the power of appointment is conferred on the council of the said city, and which office shall be abolished, or who shall not be continued in office after the passing of this ordinance, shall be entitled to a reasonable compensation, to be assessed by the said council and paid out of the funds of the said city, for the salary, fees and emoluments of the office which he shall so cease to hold; and in case the person claiming such compensation should think himself aggrieved by the determination of the said council on his claim, it shall be lawful for him to apply for and obtain a revision of such determination, by the Governor of this Province in council, who shall thereupon make such order in council as to him shall seem just, which order shall be binding on the parties respectively.

LII. Provided always, and be it further ordained, &c., that nothing in this ordinance shall extend to revoke, alter or abridge, or in any manner affect the power and authority now by law vested, or which may hereafter be vested in the master, deputy master and wardens of the trinity house of Quebec, in respect of the port and harbour of Quebec.

LIII. Provided also, and be it further ordained, &c., that nothing in this ordinance contained shall in any manner derogate from or affect, or be construed to derogate from or affect the rights of Her Majesty, Her Heirs or Successors, except in so far as the same may be specially affected by the provisions of this ordinance.

* Montreal.

And the powers and duties of the said officers to devolve on the officers to be appointed or elected under this ordinance.

* Montreal.

Those parts of the parish of Quebec* not comprised within the city to continue under the same authority as heretofore
* Montreal.
* Montreal.

Compensation to be allowed to certain persons whose office may be abolished, or who shall not be continued in office.

This ordinance not to affect the power and authority of the trinity house at Quebec.

Reservation of Her Majesty's rights.

LIV. And be it further ordained, &c., that the words *Governor of this Province*, wherever they occur in the said enactments, are to be understood as meaning and comprehending the Governor or the person authorized to execute the commission of Governor, within this Province, for the time being.

The term "Governor of the Province" defined.

LV. And be it further ordained, &c., that this ordinance and the provisions herein contained, shall not cease or expire on the first day of November which will be in the year of Our Lord one thousand eight hundred and forty-two, but shall be and remain a permanent law, and in full force, until the same shall be repealed or altered by competent legislative authority.

This ordinance made permanent.

LVI. And be it further ordained, &c., that this ordinance shall be held and taken to be a public act, and shall be judicially taken notice of and have the effect of a public act, without being specially pleaded.

And to be a public one.

An Ordinance to amend the Ordinance to incorporate the City and Town of Quebec.

4 Vict. Cap. 31.

*Note.—This ordinance is the same as 4 Vict. cap. 32, amending that incorporating Montreal, except that the latter contains three sections (XXI, XXII and XXIII) which are not in this ordinance, and that the words and numerals in the margin to which this mark * is affixed, are to be substituted for those bearing a like mark in the text.*

WHEREAS it is expedient to repeal in part, and to amend the ordinance of the legislature of this Province, passed in the fourth year of Her Majesty's reign, and intituled, *An ordinance to incorporate the city and town of Quebec*,* and to vest certain further powers in the corporation thereby constituted, and to remove certain doubts which have arisen as to the true intent and meaning of certain clauses of the said ordinance :—Be it therefore ordained and enacted, &c., that the proclamation mentioned and referred to in the second section of the said ordinance, is and shall be understood to be a certain proclamation of His Excellency Alured Clarke, Esquire, Lieutenant-Governor of the Province of Lower-Canada, issued under the great seal of the said Province, and bearing date the seventh day of May, in the year of Our Lord one thousand seven hundred and ninety two ; any error in the citation of the said proclamation in the section aforesaid, to the contrary notwithstanding.

Preamble.

* Montreal.

What proclamation is understood to be referred to in sect. 2. of 3 & 4 Vict. c. 35, (and 36.)

II. And be it further ordained, &c., that the fifteenth section of the said ordinance shall be and is hereby repealed.

Sect. 15 of said ord. repealed.

III. And be it further ordained, &c., that on the first day of December, in the year of Our Lord one thousand eight hundred and forty-two, all the members of the council of the said city appointed under the authority of the said ordinance shall go out of office ; and on the first day of December in each succeeding year, one of the members of the council for each ward shall go out of office ; and on the first day of December in the year of Our Lord one thousand eight hundred and forty-three, that member of the said council for each ward shall go out of office, who shall have been elected by the smallest number of votes in such ward, in the year of Our Lord one thousand eight hundred and forty-two ; and in the year one thousand eight hundred and forty-four, that member of the said council for each ward shall go out of office, who shall have been elected by the next smallest number of votes in

When members of the council shall go out of office.

- Proviso.** the said year of Our Lord one thousand eight hundred and forty-two; and thenceforward, those members of the council for each ward, respectively, shall go out of office, who shall have been members thereof for the longest time without re-election; Provided always, that if any two or more members of the council for any ward, shall have been elected by an equal number of votes in the said year one thousand eight hundred and forty-two, or if no poll shall have been taken in any ward in the said year, then it shall be determined by a majority of the council, which of the members thereof for such ward shall go out of office in the year one thousand eight hundred and forty-three, and in the year one thousand eight hundred and forty-four, respectively:
- Proviso respecting vacancies.** Provided also, that if on the first day of December in the year one thousand eight hundred and forty-three, or in the year one thousand eight hundred and forty-four, respectively, there shall be a vacancy or vacancies in the office of any member or members of the council for any ward, who would not under the provisions of this section have gone out of office on that day, then a member or members of the council shall be elected for the ward to fill such vacancy, as well as in the place of the member who shall then go out of office under the provisions of this section: and provided further, that any member going out of office may be re-elected, if then qualified according to the provisions of the said ordinance.
- Members may be re-elected.**
- Sec. 23 and 24 of said ord. repealed.** IV. And be it further ordained, &c., that the twenty-third and twenty-fourth sections of the said ordinance, shall be and are hereby repealed.
- Election of aldermen.** V. And be it further ordained, &c., that at the first quarterly or special meeting of the council of said city, after the election in the said year one thousand eight hundred and forty-two, and in each subsequent year, the said council shall elect from among the members of the said council, six persons or so many as may be requisite with those aldermen remaining in office to make the number of six, (if so many members there be duly qualified, and if there be not, then such less number as may be so qualified) to be aldermen of the said city, until the time when they shall respectively cease to be members of the said council under the provisions of the third section of this ordinance, and no longer: Provided always, that any alderman going out of office in any year, may, if re-elected as a member of the council at the next or any subsequent election of councillors, be re-elected as an alderman.
- Proviso.**
- Sec. 26 of said ord. repealed.** VI. And be it further ordained, &c., that the twenty-sixth section of the said ordinance, shall be and is hereby repealed.
- Manner of proceeding to fill any extraordinary vacancy occurring in the office of member of the council, after the first election.** VII. And be it further ordained, &c., that if any extraordinary vacancy shall occur in the office of member of the council of the said city, for any ward thereof, after the first election of members of the said council, the inhabitant householders and persons qualified to vote in the ward for which such vacancy shall have occurred, shall, on a day to be appointed by the mayor after such vacancy shall have occurred, elect from the persons qualified to be members of the council, a person duly qualified to fill such vacancy; and such election shall be held, and the voting and other proceedings shall be conducted, in the same manner and subject to the same provisions, as are by the said ordinance and by this ordinance provided with respect to other elections of members of the said council; and every person so elected, shall hold such office until the period at which the person in the room of whom he shall have been elected, would in the ordinary course, have gone out of office, and shall then go out of office, but may be immediately re-elected if then duly qualified: Provided always, that no
- Proviso.**

election shall take place to supply any such extraordinary vacancy, after the first day of December in any year.

VIII. And be it further ordained, &c., that the twenty-seventh section of the said ordinance, shall be and is hereby repealed. Sec. 27 of said ord. repealed.

IX. And be it further ordained, &c., that at the first quarterly or special meeting of the said council, after the elections of members thereof in the year of Our Lord one thousand eight hundred and forty-two, and in each succeeding year, the said council shall elect out of the members thereof, a fit person to be mayor of the said city, who shall continue in office until the day on which the election of members of the council shall be held in the month of December then next ensuing; and in case a vacancy shall occur in the office of mayor, by reason of any person who shall have been elected to that office not accepting the same, or by reason of his dying or ceasing to hold the said office, the said council shall, at the first general or special meeting of the said council after such vacancy, elect out of the members of the council, another fit person to be mayor for the remainder of the period in which the mayor whose place is to be supplied, was to serve. Election of mayor.

X. And whereas it is expedient that auditors of the said city should be appointed before the time mentioned in the twenty-fifth section of the said ordinance:—Be it therefore further ordained, &c., that the council of the said city, may at any quarterly or special meeting to be held before the first day of December, in the present year of Our Lord one thousand eight hundred and forty-one, elect from among the persons qualified to be members of the council, two persons who shall be and be called *Auditors* of the city of Quebec,* until the first quarterly meeting, after the day last mentioned,—and may, at the last mentioned quarterly meeting, elect two persons qualified as aforesaid, to be auditors for the said city, until the first day of December, one thousand eight hundred and forty-two: Provided always, that in every such election of auditors, no member of the council shall vote for more than one person to be such auditor as aforesaid; and provided also, that no member of the said council, nor the clerk of the said city, shall be elected an auditor as aforesaid: and provided also, that the election of auditors in each year, under the provisions of the said twenty-fifth section of the said ordinance, shall be made at the first quarterly or special meeting next after the first day of December, and not on the ninth day of December, unless that day be one of the days on which such quarterly or special meeting shall be held; any thing in the said section to the contrary notwithstanding: And provided further, that any vacancy in the office of auditor, whether occurring before or after the first day of December in the year of Our Lord one thousand eight hundred and forty-two, may be filled up by the said council, by an election to be had in the manner and under the provisions aforesaid, at any general or special meeting; and the person so elected shall hold his office, until the time when the person whose place he shall have been elected to supply, would have gone out of office. Election of auditors.
But see Tables.
* Montreal.
Proviso.
Proviso.
Proviso.

XI. And whereas doubts have arisen as to the true intent and meaning of that enactment of the thirty-sixth section of the said ordinance, whereby a casting vote is given to the mayor or to the chairman presiding at meetings of the council, in certain cases:—Be it therefore declared and further ordained, &c., that the casting vote so given to the mayor, or person presiding in the cases aforesaid, shall be a double vote, that is to say, he may first vote as a member of the said council, and if the votes be then equally Mayor to have a double vote, in certain cases.

divided, he may give a second or casting vote, and so determine the question then before the council.

Meaning of certain words used in 3 & 4 Vict. c. 35. (36.)

XII. And be it declared and further ordained, &c., that the words *one-third part of the entire number of councillors composing the said council*, in the said thirty-sixth section of the said ordinance, do and shall mean, and shall be construed to mean, one-third part of the whole number of the members of the said council ; and generally, that the word *councillor* and the word *councillors*, whenever they occur in the said ordinance, do and shall mean any member or the members of the said council, unless by the context it shall appear clearly that the said words, respectively, are intended to apply exclusively to a member or members of the said council, who is not or are not, the mayor or an alderman or aldermen of the said city.

Respecting the notice to be given for calling special meetings.

XIII. And be it further ordained, &c., that the notice required, by the thirty-eighth section of the said ordinance, to be given by the mayor with regard to any special meeting to be called by him under the provisions of the said section, shall specify the business for which the proposed meeting is to be held ; any thing in the said section to the contrary notwithstanding.

Council may levy rates and assessments on real and personal property, to the amount of 1s. 6d. in the pound.
See Tables.

XIV. And whereas doubts have arisen, as to the true intent and meaning of certain parts of the forty-first section of the said ordinance :—Be it therefore declared and further ordained, &c., that the said council have and shall have power and authority, in the manner and for the purposes in the said section mentioned, to make rates and assessments to the amount of one shilling in the pound, in any one year, on the assessed yearly value of the property liable to such assessment, over and above the amount of the assessment of six pence in the pound which might have been, before the passing of the said ordinance, levied on such property by the justices of the peace for the district of Quebec,* by virtue of the powers and authorities transferred to the said council by the forty-third section of the said ordinance, that is to say : the rates and assessments which the said council are authorized to assess and levy on real or personal property, or both, within the said city, under the authority of the said forty-first section and of the said forty-third section of the said ordinance, and subject to the provisions thereof, may in the whole amount to, but shall not exceed one shilling and six pence in the pound on the assessed yearly value of the property liable to such rates and assessments.

May impose various duties in addition to those authorized by sect. 41 of 3 & 4 Vict. cap. 35. (36.)

XV. And be it further ordained, &c., that in addition to the duties which the said council are by the forty-first section of the said ordinance, authorized to impose on persons exercising certain trades and callings within the said city, it shall be lawful for the said council, in like manner, to impose a duty or duties on proprietors, owners or keepers of theatres, circuses, or public exhibitions or shows of any kind, or of horses or carriages of any kind kept for pleasure or for hiring out, or of billiard tables, or dogs, within the said city, and on wholesale and retail dealers in goods, wares or merchandize of any kind, keepers of eating-houses, coffee-houses or ordinaries, auctioneers, grocers, bakers, butchers, hucksters, pawnbrokers, livery-stable-keepers or carters, within the said city, and on all persons acting as ferrymen to the said city, or plying for hire for the conveyance of persons by water to the said city, from any place not more than nine miles distant from the same,—and to impose, by any bye-law or bye-laws imposing any such duty or duties, such fines not exceeding five pounds, and such imprisonment not exceeding thirty days for any one offence, on any person exercising any of the callings

And may impose fines and imprisonment.

* Montreal.

or trades aforesaid, without having paid the duty imposed on persons exercising the same, as they may think proper for enforcing the payment of such duties.

XVI. And be it further ordained, &c., that the said council shall have power and authority, by any bye-law to be passed for that purpose, to increase the amount of the commutation money payable by each person liable to statute labour on the highways within the said city, to any sum not exceeding five shillings currency for each person so liable, and to enact that each and every person so liable, shall pay the amount of such commutation money so fixed, and shall not be allowed to offer his personal labour on the said highways instead thereof, and to exempt from the payment of such commutation money, any class of persons to whom they shall deem it right to grant such exemption on account of the limited means of such persons to pay the same.

The commutation money for statute labor may be increased, and certain persons exempted from the payment thereof.

XVII. And be it further ordained, &c., that all the powers and authority heretofore vested in the justices of the peace for the district of Quebec,* to make any tariff of rates of ferryage to the city of Quebec* from any place within nine miles of the said city, or to make any regulations or bye-laws for the government of persons plying as ferrymen to the said city, from places within the said limits, shall be and are hereby transferred to and vested in the said council, who shall have full power and authority to make such rules, regulations and bye-laws concerning such rates of ferryage and for the government of the said ferrymen, and of all landing places within the city of Quebec,* as they shall deem expedient: Provided always, that all rules and regulations made in the behalf aforesaid by the said justices of the peace, and in force at the time of the passing of this ordinance, shall remain in force and be observed under the direction of the said council, until they shall repeal or alter the same: And provided also, that nothing herein contained, shall in any way diminish the powers of the trinity house of Quebec,* or the power of the said justices of the peace, or of the Governor, Lieutenant-Governor, or person administering the government of this Province, to grant or refuse a licence to any ferryman, or to save any person from being liable to any penalty by law imposed on persons acting as ferrymen without such licence.

Council may make rules and regulations concerning ferrymen and landing places.
* Montreal.
* Montreal.

* Montreal.
Proviso.

Proviso.
* Montreal.

XVIII. And be it further ordained, &c., that in addition to the subjects, matters and things, for and with regard to which the said council are by the said ordinance authorized and empowered to make bye-laws, it shall be lawful for the said council to make bye-laws, which shall be binding on all persons within the said city, for the following purposes, that is to say:—

For establishing a board or boards of health for and within the said city, and for appointing the members thereof, and for making all such regulations as they may deem necessary for preserving the inhabitants thereof from contagious and infectious diseases, or for diminishing the danger of or arising from the same; and for imposing such penalties not exceeding five pounds, currency, and such imprisonment not exceeding thirty days, for any one offence, as they shall deem necessary for enforcing such bye-laws and regulations.

Establishing boards of health.

For regulating the measurement of all firewood, coals and salt, and the weight and measurement of all grain, brought into the said city for sale and consumption therein; and for appointing measurers and weighers of all such articles, and establishing and regulating the fees to be paid to such officers, and the duties they shall perform.

Measurement of wood, coals, salt and grain.

divided, he may give a second or casting vote, and so determine the question then before the council.

Meaning of certain words used in 3 & 4 Vict. c. 35. (36.)

XII. And be it declared and further ordained, &c., that the words *one-third part of the entire number of councillors composing the said council*, in the said thirty-sixth section of the said ordinance, do and shall mean, and shall be construed to mean, one-third part of the whole number of the members of the said council ; and generally, that the word *councillor* and the word *councillors*, whenever they occur in the said ordinance, do and shall mean any member or the members of the said council, unless by the context it shall appear clearly that the said words, respectively, are intended to apply exclusively to a member or members of the said council, who is not or are not, the mayor or an alderman or aldermen of the said city.

Respecting the notice to be given for calling special meetings.

XIII. And be it further ordained, &c., that the notice required, by the thirty-eighth section of the said ordinance, to be given by the mayor with regard to any special meeting to be called by him under the provisions of the said section, shall specify the business for which the proposed meeting is to be held ; any thing in the said section to the contrary notwithstanding.

Council may levy rates and assessments on real and personal property, to the amount of 1s. 6d. in the pound.
See Tables.

XIV. And whereas doubts have arisen, as to the true intent and meaning of certain parts of the forty-first section of the said ordinance :—Be it therefore declared and further ordained, &c., that the said council have and shall have power and authority, in the manner and for the purposes in the said section mentioned, to make rates and assessments to the amount of one shilling in the pound, in any one year, on the assessed yearly value of the property liable to such assessment, over and above the amount of the assessment of six pence in the pound which might have been, before the passing of the said ordinance, levied on such property by the justices of the peace for the district of Quebec,* by virtue of the powers and authorities transferred to the said council by the forty-third section of the said ordinance, that is to say : the rates and assessments which the said council are authorized to assess and levy on real or personal property, or both, within the said city, under the authority of the said forty-first section and of the said forty-third section of the said ordinance, and subject to the provisions thereof, may in the whole amount to, but shall not exceed one shilling and six pence in the pound on the assessed yearly value of the property liable to such rates and assessments.

May impose various duties in addition to those authorized by sect. 41 of 3 & 4 Vict. cap. 35. (36.)

XV. And be it further ordained, &c., that in addition to the duties which the said council are by the forty-first section of the said ordinance, authorized to impose on persons exercising certain trades and callings within the said city, it shall be lawful for the said council, in like manner, to impose a duty or duties on proprietors, owners or keepers of theatres, circuses, or public exhibitions or shows of any kind, or of horses or carriages of any kind kept for pleasure or for hiring out, or of billiard tables, or dogs, within the said city, and on wholesale and retail dealers in goods, wares or merchandize of any kind, keepers of eating-houses, coffee-houses or ordinaries, auctioneers, grocers, bakers, butchers, hucksters, pawnbrokers, livery-stable-keepers or carters, within the said city, and on all persons acting as ferrymen to the said city, or plying for hire for the conveyance of persons by water to the said city, from any place not more than nine miles distant from the same,—and to impose, by any bye-law or bye-laws imposing any such duty or duties, such fines not exceeding five pounds, and such imprisonment not exceeding thirty days for any one offence, on any person exercising any of the callings

And may impose fines and imprisonment.

or trades aforesaid, without having paid the duty imposed on persons exercising the same, as they may think proper for enforcing the payment of such duties.

XVI. And be it further ordained, &c., that the said council shall have power and authority, by any bye-law to be passed for that purpose, to increase the amount of the commutation money payable by each person liable to statute labour on the highways within the said city, to any sum not exceeding five shillings currency for each person so liable, and to enact that each and every person so liable, shall pay the amount of such commutation money so fixed, and shall not be allowed to offer his personal labour on the said highways instead thereof, and to exempt from the payment of such commutation money, any class of persons to whom they shall deem it right to grant such exemption on account of the limited means of such persons to pay the same.

The commutation money for statute labor may be increased, and certain persons exempted from the payment thereof.

XVII. And be it further ordained, &c., that all the powers and authority heretofore vested in the justices of the peace for the district of Quebec,* to make any tariff of rates of ferryage to the city of Quebec* from any place within nine miles of the said city, or to make any regulations or bye-laws for the government of persons plying as ferrymen to the said city, from places within the said limits, shall be and are hereby transferred to and vested in the said council, who shall have full power and authority to make such rules, regulations and bye-laws concerning such rates of ferryage and for the government of the said ferrymen, and of all landing places within the city of Quebec,* as they shall deem expedient: Provided always, that all rules and regulations made in the behalf aforesaid by the said justices of the peace, and in force at the time of the passing of this ordinance, shall remain in force and be observed under the direction of the said council, until they shall repeal or alter the same: And provided also, that nothing herein contained, shall in any way diminish the powers of the trinity house of Quebec,* or the power of the said justices of the peace, or of the Governor, Lieutenant-Governor, or person administering the government of this Province, to grant or refuse a licence to any ferryman, or to save any person from being liable to any penalty by law imposed on persons acting as ferrymen without such licence.

Council may make rules and regulations concerning ferrymen and landing places.
* Montreal.
* Montreal.

* Montreal.
Proviso.

Proviso.
* Montreal.

XVIII. And be it further ordained, &c., that in addition to the subjects, matters and things, for and with regard to which the said council are by the said ordinance authorized and empowered to make bye-laws, it shall be lawful for the said council to make bye-laws, which shall be binding on all persons within the said city, for the following purposes, that is to say:—

For establishing a board or boards of health for and within the said city, and for appointing the members thereof, and for making all such regulations as they may deem necessary for preserving the inhabitants thereof from contagious and infectious diseases, or for diminishing the danger of or arising from the same; and for imposing such penalties not exceeding five pounds, currency, and such imprisonment not exceeding thirty days, for any one offence, as they shall deem necessary for enforcing such bye-laws and regulations.

Establishing boards of health.

For regulating the measurement of all firewood, coals and salt, and the weight and measurement of all grain, brought into the said city for sale and consumption therein; and for appointing measurers and weighers of all such articles, and establishing and regulating the fees to be paid to such officers, and the duties they shall perform.

Measurement of wood, coals, salt and grain.

Making or repairing common sewers. For assessing the proprietors of real property, for such sum or sums as may at any time be necessary to defray the expenses of making or repairing any common sewer, in any public street or highway within the said city, and immediately in front of such real property, respectively, and for regulating the mode in which such assessments shall be collected and paid.

Removal of door steps, porches, &c. For directing and requiring the removal, at any time not less than six months after the passing of this ordinance, of any door steps, porches, railings, or other projections into, or obstructions in any public street or highway within the said city, by and at the expense of the proprietors of the real property in or upon which such projection or obstruction shall be found.

Lighting the city. For defraying out of the funds of the said city, the expense of lighting the said city or any part thereof with gas, or with oil, or in any other manner, and of performing all such work of any kind as may be necessary for such purpose; and for obliging the proprietors of real property, in any part of the city so lighted or to be lighted, to allow such work to be performed on or in such property, respectively, and such pipes, lamps, lamp-posts and other contrivances or things as may be necessary for the purpose aforesaid, to be fixed in or upon such property or any building thereon; the expense of all such work being in every case defrayed by the said council, and out of the funds of the said city.

Altering the level of foot-paths. For altering the level of the foot-paths or side walks in any street or highway within the said city, in such manner as the said council shall deem conducive to the convenience, safety and interest of the inhabitants of the said city: Provided always, that the said council shall and may make compensation out of the funds of the said city, to any person whose property shall be injuriously affected by any such alteration of the level of any foot-path in front thereof.

Regulating certain vehicles. * any. For regulating all vehicles of any kind whatever, in which any articles shall be exposed for sale in the* public market, or in any street or public place within the said city, and for imposing a duty or duties on such vehicles and establishing the mode in which such duty or duties shall be collected and paid.

For imposing fines and imprisonment. And by any such by-law for any of the purposes aforesaid, or for any of the purposes for which they are authorized by this ordinance to make any bye-law, the said council may impose such fines not exceeding five pounds, and such imprisonment not exceeding thirty days, as they may deem necessary for enforcing the same.

Respecting market places. XIX. And be it further ordained, &c., that the said council shall have full power and authority by any bye-law, to change the site of any market or market place within the said city, or to establish any new market or market place, or to abolish any market or market place then or now existing, or to appropriate the site thereof, or any part of such site, for any other public purpose whatever; any law, statute, or usage, to the contrary notwithstanding; saving to any party aggrieved by any act of the said council under the authority of this section, any remedy such party may by law have against the corporation of the said city, for any damage by such party sustained by reason of such act.

Saving clause. XX. And be it further ordained, &c., that the seventh section of the act of the provincial legislature, passed in the thirty-ninth year of the reign of His Majesty King George the Third, and intituled, *An Act for the better regulating the weights and measures of this Province*, shall be

Sect. 7 of 39
Geo. 3. c. 7 re-
pealed, as far as
regards the
said city.

and is hereby repealed, in so far as regards the said city of Quebec ;* and from and after the passing of this ordinance, the said council may cause the different articles sold in any market, to be weighed and measured (when required by any party interested therein,) by such person and * officer and under such regulations, and on the payment of such fees as the said council shall, by a bye-law, from time to time appoint and make in that behalf.

XXI.* And be it further ordained, &c., that the fiftieth section of the said ordinance, shall be and is hereby repealed.

XXIII.* And be it further ordained, &c., that from and after the said first day of May, next after the passing of this ordinance, the said ordinance passed in the second year of Her Majesty's reign, and intituled, *An ordinance to suspend for a limited time certain parts of two ordinances therein mentioned, as far as the same relate to the city of Quebec,* and to establish a society therein for preventing accidents by fire*, and all bye-laws made by the said fire society, or by the said council, under the authority of the said ordinance, shall be repealed ; and the books, papers, documents, monies, and things delivered and paid over to the said council, in pursuance of the next preceding section of this ordinance, shall remain the property of the corporation of the said city, and under the control of the said council.

XXIV.* And be it further ordained, &c., that from and after the said first day of May, next after the passing of this ordinance, a certain ordinance, &c., (17 Geo. 3. cap. 13,) and a certain ordinance, &c., (30 Geo. 3. cap. 7,) and a certain act, &c., (59 Geo. 3. cap. 8,) shall be and remain repealed, in so far as they relate to the said city of Quebec.*

XXV.* And for the better protection of the lives and property of the inhabitants of the said city, and for preventing accidents by fire therein :—Be it further ordained, &c., that from and after the said first day of May, next after the passing of this ordinance, the said council of the said city shall have full power and authority to make bye-laws, which shall be binding on all persons within the said city, for the following purposes, that is to say :—

For establishing such rules and regulations as they shall deem expedient for preventing accidents by fire, and for the conduct of all persons present at any fire within the said city.

For appointing all such officers as they may deem necessary for carrying such rules and regulations as aforesaid into effect ; and for prescribing the duties of such officers, and providing for their adequate remuneration out of the funds of the said city.

For defraying, out of the said funds, any expenses which they may deem it right to incur, for the purchase of engines or apparatus of any kind, or for any other purpose relative to the prevention of accidents by fire, or to the means of arresting the progress of fires.

For authorizing such officers as shall be appointed by the council for that purpose, to visit and examine, at suitable times and hours to be established in such bye-laws, as well the interior as the exterior of all houses, buildings and real property of any description within the said city, for the purpose of ascertaining whether the rules and regulations to be made as aforesaid have been duly observed and obeyed ; and for obliging all proprietors, possessors or occupants of such houses, buildings or real property, to admit such officers and persons into and upon the same, at the times and for the purposes aforesaid.

The council may cause the articles sold in market to be weighed and measured.

* Montreal.
* or.

*XXIV. Three sections are inserted here in the Montreal ordinance.

* XXVI. After 1st May, 1841, the ord. 2 Vict (3) cap. 8 & 30, and all bye-laws made thereunder, repealed ; and all monies, &c., of the fire society to be under the control of the council.

* Montreal.

* XXVII. 17 Geo. 3. c. 13, 30 G. 3. c. 7, and 59 G. 3. c. 8, repealed, as to the said city.

* Montreal.

* XXVIII. The council may make bye-laws for various purposes relative to fires.

For preventing accidents by fire.

Appointment of officers.

Purchase of engines.

Visiting houses, &c.

Sweeping chimnies.

For causing all chimnies within the said city to be swept in such manner, by such persons, and at such times, as the said council shall appoint.

Demolishing houses, &c.

For vesting in such members of the said council, and in such officers as shall be designated in such bye-laws, the power of causing to be demolished or taken down, all buildings or fences which such members or officers shall deem necessary to be demolished or taken down, in order to arrest the progress of any fire.

Preventing of thefts.

For preventing thefts and depredations at fires, and for punishing any person who shall resist or maltreat any member or officer of the council in the execution of any duty assigned to him, or in the exercise of any power vested in him, by any bye-law made under the authority of this section.

Granting relief and bestowing rewards, &c.

For defraying out of the funds of the city, any expense to be incurred by the said council in assisting any person in their employ, who shall have received any wound or contracted any disease at any fire, or in assisting or providing for the family of any person in their employ who shall perish at any fire, or in bestowing rewards in money, medals or otherwise, upon any person who shall have performed any meritorious action at any fire.

Tax on chimnies.

For imposing, over and above all other rates, assessments or duties which the said council are empowered to impose, such tax or duty on and in respect of each chimney actually used in the said city, and payable by the occupant of the house or building in which such chimney shall be, as they shall deem expedient; and for regulating the times and manner in which such tax or duty shall be collected and paid: Provided always, that the said council shall make no further charge for causing any chimney to be swept in the manner to be provided by any bye-law in that behalf, as aforesaid.

* XXIX. The council to pay the debts of the fire society, and also the annuity payable by the same.

XXVI.* Provided always, and be it further ordained, &c., that the said council shall and may, out of the funds of the said city, pay and discharge all debts and obligations lawfully contracted by the said fire society, and due at the time of the passing of this ordinance; and shall also pay and continue to pay the annuity or retiring allowance, payable before the passing of this ordinance by the fire society aforesaid, to the person or persons who immediately before the establishment of the said fire society, held the office of overseer to prevent accidents by fire, for the said city of Quebec.*

* Montreal.

* XXX. Council may take and purchase property for opening and improving streets, market places, &c.

XXVII.* And be it further ordained, &c., that the said council shall have full power and authority, notwithstanding any law to the contrary, to purchase and acquire, or to take and enter into after paying, tendering or depositing the value thereof, to be ascertained as hereinafter provided, such land, ground or real property of any description within the said city, as may by them be deemed necessary for opening new streets, squares, market-places, or other public highways or places, or for continuing, enlarging, or otherwise improving those streets, squares, market-places or other public highways or places now made, or as a site for any public building to be erected by the said council,—and to pay to or for the use of the proprietor or proprietors of such ground or real property, and out of any funds of the said city now in, or which shall hereafter come into their hands, such sum or sums of money as may be agreed upon as the value of such ground or other property, by the party proprietor thereof and the said council, respectively, or ascertained in the manner hereinafter mentioned, in case they shall not so agree upon the same.

* XXXI. Corporations

XXVIII.* And be it further ordained, &c., that it shall be lawful for all corporations aggregate or sole, husbands, tutors or guardians, curators,

grévés de substitution, and all trustees whatsoever, who are or shall be seized or possessed of, or interested in, any piece or pieces, parcel or parcels of ground or other real property within the said city, selected and fixed upon by the said council for any of the purposes aforesaid, not only for themselves, their heirs and successors, but for and on behalf of all persons whom they represent, or for whom or in trust for whom they are or shall be seized, possessed or interested as aforesaid, whether minors or issue unborn, lunatics, idiots, *femes covert*, or other person or persons,—to contract for, sell and convey such piece or pieces, parcel or parcels of ground, to the corporation of the mayor, aldermen and citizens of the city of Quebec; * and such contracts, sales and conveyances shall be valid and effectual in law, to all intents and purposes whatsoever; any law or custom to the contrary notwithstanding: And all corporations and persons whatsoever, so contracting, selling or conveying as aforesaid, are hereby indemnified for and in respect of any such sale, which he, she, or they shall respectively make by virtue of or in pursuance of this ordinance; saving always the rights of any person or party, to the whole or any part of the purchase money or compensation to be paid by the said corporation for any real property purchased or taken as aforesaid.

and other parties selling and conveying property on behalf of themselves or those whom they represent, indemnified.

* Montreal.

XXIX.* And be it further ordained, &c., that in all cases where the said council, and the persons seized or possessed of, or interested in the said pieces or parcels of ground or other real property, or any of them, or of any part thereof, shall be absent, or shall not be known, or shall not, by voluntary agreement or by arbitration, settle and determine the price and prices, compensation and compensations to be paid for the said premises, or any part thereof, such price and prices, compensation and compensations shall be ascertained, fixed and determined in manner following, that is to say;—the justices of the peace resident within the said city and town of Quebec, * in a special session to be for that purpose holden,—upon a petition to them addressed, and upon proof that notice in writing was given one month previously to the party seized, possessed of or interested in such pieces or parcels of ground or real property, or to his, her, or their tutor, curator, administrator, attorney, agent, or curator *ad hoc*, of the intention of the said council to present such petition to the said justices of the peace, for the purpose of taking possession of, entering into, and appropriating to the use of the said corporation, such pieces or parcels of ground or other real property,—shall summon a jury of twelve disinterested persons, taken from among the persons resident within the said city, qualified to be special jurors in civil cases; and the said jury shall determine upon their oaths the amount of the price or compensation which they shall deem reasonable to be paid by the said corporation, for such pieces or parcels of ground or real property as aforesaid: Provided always, that any determination as aforesaid, in which any nine of the jurors shall agree, shall, for the purposes of this ordinance, have the same effect as if all the jurors had agreed therein.

* XXXII. Cases in which the price to be paid for property shall be determined by a jury.

* Montreal.

Proviso.

XXX.* And be it further ordained, &c., that on payment of the price or prices, compensation or compensations to be fixed and determined as aforesaid, or in case of refusal or neglect to accept the same, or in case it be doubtful to what person or party the same shall of right belong, on the deposit thereof in the hands of the prothonotary of the court of King's bench for the district of Quebec, * or in the hands of the prothonotary of the second division of the court of common pleas for this Province, for the use of the

* XXXIII. When the right of property to any land shall become vested in the corporation. * Montreal. * Sic.

person or persons or party entitled to the same, the right of property, title and interest in and to such pieces or parcels of ground or other real property, respectively, for which such price or prices, compensation or compensations shall be payable, shall be divested out of the person or persons or party seized and possessed thereof or entitled to the same, and shall become and be vested in the corporation of the mayor, aldermen and citizens of the city of Quebec,* and the council of the said city may, after fifteen days notice in that behalf to the proprietor, possessor or occupant of the piece or parcel of land to which such award shall relate, enter upon, take possession of and use such pieces or parcels of land for any of the purposes authorized by this ordinance or the ordinance herein first cited and amended; any law, statute or usage to the contrary notwithstanding.

* Montreal.

* XXXIV.
How the amount of compensation to be paid for damages shall be ascertained.

XXXI.* And be it further ordained, &c., that all the provisions and enactments of the two sections next immediately preceeding this section, with regard to the mode in which the value of any real property taken by the said council shall be ascertained, and the amount thereof paid or deposited in certain cases, shall be and are hereby extended to all cases, in which it shall become requisite to ascertain the amount of compensation to be paid by the council to any proprietor of real property, for any damage by him sustained by reason of any alteration made by order of the said council in the level of any footpath or side-walk, or to any party by reason of any other act of the said council for which they are bound to make compensation, and with regard to the amount of compensation for which damage, the party sustaining the same and the said council shall not agree.

* XXXV.
Corporations may invest the price received for property in other real property.

XXXII.* And be it further ordained, &c., that all corporations, ecclesiastical or civil, whose property or any part of whose property shall be conveyed to or taken by the said corporation of the city of Quebec, under the authority of this ordinance or of the ordinance herein first cited and amended, may invest the price or compensation paid for the property so conveyed or taken, in other real property in any part of this Province, and may take and hold the same without Her Majesty's letters of mortmain; any law to the contrary notwithstanding.

* XXXVI.
How the monies payable to the council may be recovered.
* Montreal.

XXXIII.* And be it further ordained, &c., that all monies due or payable to the said council as the amount of any rate, assessment, tax, duty or impost lawfully imposed by or payable to the said council, under the authority of the said ordinance to incorporate the city and town of Quebec,* or of this ordinance, may be sued for and recovered with costs, in a summary manner and on the oath of one or more credible witnesses, before any two or more justices of the peace for the district of Quebec,* at any weekly sitting of such justices in the city of Quebec;* and the amount so recovered and the costs aforesaid, shall and may be levied by distress and sale of the goods and chattels of the party defendant, by warrant under the hand and seal of such justices, or of any one of them, if not forthwith paid to the treasurer of the said corporation.

* Montreal.
* Montreal.

* XXXVII.
How offenders against any bye-law may be prosecuted.

XXXIV.* And be it further ordained, &c., that all offenders against any bye-law lawfully made or to be made by the said council, or by the said fire society, or by any justices of the peace or other functionaries whatsoever, in whose place and stead the said council have been or hereby are substituted, by virtue of any power transferred to and vested in the said council, may be prosecuted before any two or more justices of the peace for the district of

Quebec,* at any such weekly sitting as aforesaid; and such justices shall • Montreal.
 have full power and authority, on the conviction of any such offender (and
 any such offender may be convicted on the oath of any one credible witness
 other than the informer or prosecutor) to award the penalty or the impris-
 onment, as the case may be, imposed by any such bye-law for the offence of
 which such offender shall be convicted, with the costs of prosecution, against
 such offender, and to commit such offender to the common gaol of the dis-
 trict, if the offence be punishable by imprisonment, and to levy such penalty
 with costs, if not forthwith paid, by distress and sale of the goods and chat-
 tels of the offender, by warrant under the hand and seal of any one of such
 justices; and one moiety of any such penalty shall go to the informer or • Application of
 prosecutor, and the other moiety shall be paid to the treasurer of the said such penalties.
 corporation, and form part of the funds at the disposal of the said council:
 Provided always, that any such prosecution may be brought and conducted Proviso.
 in the name and on the behalf of the said corporation, and in that case the
 whole of any such penalty as aforesaid, shall be paid to the said treasurer
 and form part of the funds aforesaid: and provided also, that the mayor of Proviso.
 the said city, or any member of the said council being a justice of the peace
 for the said district of Quebec,* may act as a justice of the peace under the • Montreal.
 provisions of this section and of the section next preceding it; and any mem-
 ber, officer or servant of the said corporation, shall be a competent witness
 in any suit or prosecution under the said provisions, if he have no direct
 interest in the issue of such suit or prosecution, or be not otherwise render-
 ed incompetent; any law, usage or custom to the contrary notwithstanding.

XXXV.* And be it further ordained, &c., that all the provisions of the • XXXVIII.
 forty-second section of the said ordinance to incorporate the city and town The provisions
 of Quebec,* shall be and are hereby extended to all bye-laws to be made by of sec. 42, of
 the said council under the authority of this ordinance. ord. 4 Vic.
 caps. 35 (36),
 extended.

XXXVI.* And be it further ordained, &c., that nothing in this ordinance • Montreal.
 contained, shall in any manner derogate from or affect, or be construed to • XXXIX.
 derogate from or affect the rights of Her Majesty, Her Heirs and Succes- Reservation of
 sors, except in so far only as the same may be expressly derogated from or Her Majesty's
 affected by the provisions of this ordinance. rights.

XXXVII.* And be it further ordained, &c., that the words *Governor* • XL.
 of this *Province*, wheresoever they occur in this ordinance, shall be under- Meaning of
 stood as meaning and comprehending the Governor, or any person autho- words.
 rized to execute the commission of Governor, within this Province, for the
 time being.

XXXVIII.* And be it further ordained, &c., that this ordinance shall • XLI.
 be held and taken to be a public act, and as such shall be judicially taken This ordi-
 notice of by all judges, justices and persons whomsoever, without being nance to be a
 specially pleaded. public act.

XXXIX.* And be it further ordained, &c., that this ordinance shall be • XLII.
 and is hereby made permanent, and shall remain in force until repealed or And made per-
 altered by competent authority. manent.

4. MARKET IN UPPER TOWN, QUEBEC.

55 Geo. III. Cap. 7. An Act to demolish the Market House of the Upper Town of Quebec, and to provide means for erecting new stalls, and for other purposes therein mentioned.

Preamble.

WHEREAS the market house of the upper town of Quebec, by reason of the large quantity of wood employed in the construction thereof, and also by reason of its great height, a circumstance which would prevent the possibility of giving assistance in case of fire, exposes the city to the risk of being consumed; and whereas the noxious air which thence exhales may so corrupt meat as to endanger the health and even the life of the inhabitants; and whereas also the sum necessary to complete and put the same into good repair, added to the value of the materials of which the same is composed, might suffice for the erection of a new market house, ornamental to the city and divested of those inconveniences:—May it therefore, &c., and be it enacted, &c., that it shall and may be lawful to and for the Governor, &c. *This section appears to be effete; (see tables,) as do also sections 2, 3, 4, 5, 6 and 7.*

Governor empowered to appoint five persons to be trustees for the purpose of this act.

VIII. *Omitted.—The trustees shall meet yearly between the 1st and 10th of April, to fix the lowest rates at which the stalls shall be let for the year commencing on 1st May:—and the same shall be let by public auction to the highest bidder, but not at a lower rate than that so fixed: Proviso, that stalls not then let may be let subsequently.—See tables.*

Powers of the trustees to determine when certain duties belonging to their office are performed.

IX. And be it further enacted, &c., that when and so soon as the said new stalls and other things fit and useful to be made and done to and upon the said market place under this act, shall be complete, and the said sum of fifteen hundred pounds reimbursed, the powers of the said trustees shall determine, and that the said trustees shall place in the hands of the clerk or clerks of the peace all the proceedings, accounts given in, contracts, agreements and other papers whatsoever relating to the execution of this act, to remain of record in the office of the peace; and the said justices of the peace shall thenceforth be considered trustees for the conduct and direction of the said stalls and of all other matters and things which to and upon the said market place shall have been made, done and performed, and shall thereafter continue from time to time to lease the same in the manner herein prescribed in that behalf with respect to the trustees; except only that the said justices of the peace shall not be held previously to fix the rates of the rent, as the trustees to be appointed under this act are held to do, and the rents, revenue and profits thence arising, shall be applied to and upon the repairing and keeping up of the said stalls and other things so made and done, and the surplus shall be applied to the same purposes as the monies levied and collected under an act, &c., (36 Geo. 3. cap. 9.,) and under an act, &c., (39 Geo. 3. cap. 5.)

See Tables.

X. *Omitted.—Penalty on persons destroying or injuring, &c., the stalls and other works on the market place: The offender may be committed to gaol in default of payment.*

XI. *Omitted.—Offences against this act to be prosecuted by the treasurer. Penalties to go to the Crown.—See tables.*

XII. *Omitted.—It shall be the duty of the clerk of the market to see to the execution of all regulations touching the said market. Penalty on him for neglect.—See tables.*

XIII. Omitted.—*Rents, penalties and forfeitures, how to be recoverable.—See tables.*

XIV. Omitted.—*Limitation of the commencement of actions to three months.*

XV. Omitted.—*All monies levied to be accounted for to His Majesty. See tables.*

XVI. Omitted.—*This act to be a public act. Saving of His Majesty's rights, &c.*

5. MARKET IN ST. PAUL STREET.

An Act to establish a New Market-Place in St. Paul Street, in the Lower Town of Quebec, and to authorize the advance of a certain sum of money to the Trustees of the said Market. 9 Geo. IV.
Cap. 53.

MOST GRACIOUS SOVEREIGN,

WHEREAS the magistrates and other citizens of the city of Quebec, have, by their petition to the legislature, set forth the advantages that would arise to the inhabitants of the said city and its suburbs from the establishment of a public market-place, on the north side of St. Paul street, in the lower town of Quebec; and whereas it is expedient that the prayer of the said petition be granted in accordance thereof:—May it therefore, &c., and be it enacted, &c., that a public market-place shall be established on the north side of St. Paul street, in the lower town of Quebec aforesaid, &c., (*This section is effete.—See tables.*) Preamble.
Governor authorized to appoint trustees for the said market-place.

II. Omitted.—*£1000 to be advanced to the trustees, to enable them to purchase a lot of ground for a wharf and for the site of a market-place in St. Paul street.—See tables.*

III. Omitted.—*The sum advanced to be repaid to the Province without interest, in seven years.—See tables.*

Sect. IV, V, VI and VII appear to be effete.—*See tables.*

VIII. Omitted.—*Trustees may borrow £5000 on interest, for building the said market, wharf, &c. and the purposes of this act.*

IX. Omitted.—*Trustees authorized to pass a deed hypothecating the rents and profits of the market-house and stalls, to the lenders of the money; and the hypothecs to be transferable.*

X. Omitted.—*The trustees, as soon as there are funds in their hands, shall pay off the principal and interest of the money borrowed, in payments of not less than five per cent at one time.*

XI. Omitted.—*Trustees to let out the stalls in the market house; and a treasurer to be appointed to receive the rents thereof.*

XII. Omitted.—*Any part of the market unoccupied and not used for the sale of butchers' meat or fish, may be let out for the selling of grain, fruit, &c.*

XIII. Omitted.—*Over and above the rent required for the stalls, the trustees may annually allow to the clerks of the markets, fees, not exceeding £100 a year.—(But see tables.)—These fees to be publicly announced.*

XIV. *Omitted.*—*Farmers not being butchers may sell all kinds of butchers' meat in sleighs, carts, &c., without paying any fee to the clerk of the market.—But see tables.*

XV. *Omitted.*—*When principal and interest are paid off, the sums coming into the hands of the trustees, except fines, to be applied to the improvement of the roads in the city.—But see tables.*

XVI. *Omitted.*—*Penalty on persons injuring the market-house, &c. Mode of enforcing such penalty.—See tables.*

XVII. *Omitted.*—*The clerks of the market to see that all rules touching it are carried into effect.*

XVIII. *Omitted.*—*Trustees not to act as justices of the peace in the execution of this act.—But see tables.*

XIX. *Omitted.*—*Offenders may be sued by the trustees before any two justices of the peace at their weekly sittings: Appeal allowed.*

XX. *Omitted.*—*Rents and penalties to be levied by distress.—See tables.*

XXI. *Omitted.*—*Offenders to be prosecuted within a month after the offence.*

XXII. *Omitted.*—*Fines, &c., to be received by the sheriff and to be paid to the receiver general for the public uses.—See tables.*

XXIII. *Omitted.*—*This act to be a public act.*

2 WIL. IV.
Cap. 13.

An Act to amend an Act passed in the ninth year of His late Majesty's Reign, and to provide more effectually for the establishment of a Market and Landing Place in Saint Paul's Street, in the Lower Town of Quebec.

Preamble.

Act 9 Geo. 4.
cap. 53, cited.

WHEREAS the trustees appointed under the authority of an act, &c., (9 Geo. 4. cap. 53,) have, by their humble petition to the legislature, set forth that their predecessors in office did agree with the officers of His Majesty's ordnance department, concerning the consideration to be paid for a certain lot of ground, lying within the limits prescribed by the said act, and considered by the said trustees an eligible site for the said market-place, and that by a deed of sale, made and passed at the city of Quebec, on the twenty-fifth day of July, in the year of Our Lord one thousand eight hundred and thirty-one, before Archibald Campbell, His Majesty's notary public and *confrère*, the said lot of ground was, under the conditions therein set forth, conveyed to the trustees of the said market-place, in consideration of the sum of three thousand five hundred pounds, currency; And whereas the sum appropriated by the said act, for the purchase of a lot of ground as a site for the said market-place, is only one thousand pounds currency, and the balance of two thousand five hundred pounds, currency, still remains due and owing by said trustees, who by their said petition have prayed, that in order to discharge their said debt and for the purpose of carrying the said act into effect, they may be permitted to sell a portion of the said lot, and to raise by loan, a certain sum of money; and whereas it is expedient that the prayer of the said petition be granted:—Be it therefore enacted, &c. *Omitted.*—*The trustees may, at any time within seven years, sell a certain portion of the said lot.—But see tables.*

II. *Omitted.*—*The trustees may borrow £5000 to meet their immediate outlay, to be repaid by the sale of ground, on which they may give an hypothec.—But see tables.*

III. *Omitted.*—*The trustees may, from time to time, establish certain rules of wharfage, to be approved by the magistrates.—But see tables.*

IV. Provided always, and be it further enacted, &c., that so soon as the city of Quebec shall be incorporated, all the powers vested in the trustees and magistrates by this act, shall cease and determine in respect to them, and be vested in the said corporation, to whom the said trustees and magistrates shall deliver up possession of the said market and account for their transactions respecting the same.

When the city is incorporated, the powers of trustees and magistrates to cease.

6. INCORPORATION OF MONTREAL.

An Ordinance to incorporate the City and Town of Montreal. 3 & 4 Vict. Cap. 36.

WHEREAS for the better protection, care and management of the local interests of the inhabitants of the city and town of Montreal, and for the municipal government and the improvement thereof, it is expedient that the said city and town be incorporated: Be it therefore ordained and enacted, &c. *This section is the same as section 1 of 3 & 4 Vict. cap. 35, page 472, which see.*

II. And be it further ordained and enacted, that the tract of land which, in and by a certain proclamation of His Excellency Sir Alured Clarke, Lieutenant-Governor of the Province of Lower Canada, issued under the great seal of the said Province, and bearing date the seventh day of May, in the year of Our Lord one thousand seven hundred and ninety-one, was and is described as being comprehended within the city and town of Montreal, and which it was therein declared should be thenceforward called by that name, shall, from and after the passing of this ordinance, constitute and be, and be called *The city of Montreal.*

What tract of land is to constitute and be called the city of Montreal.

** That part of the proclamation hereby intended, which fixes the boundaries of the city of Montreal, is in the following words,—“ and “ that the second of the said cities, to be called (as heretofore) the city “ and town of Montreal, shall comprehend all that tract or parcel of land “ (being part and parcel of the aforesaid county of Montreal) bounded in “ front by the river St. Lawrence, and in the rear by a line parallel to the “ general course of the fortification walls on the rear of the said town, at the “ distance of one hundred chains from the gate commonly called the St. “ Lawrence gate,—and bounded on the easterly or lowermost side by a “ line running parallel to the general course of the fortification walls on the “ easterly or lowermost side of the said town, at the distance of one hundred “ chains from the gate towards the Quebec suburbs, commonly called the “ Quebec gate,—and on the westerly or uppermost side by a line running “ parallel to the general course of the fortification walls on the westerly or “ uppermost side of the said town, at the distance of one hundred chains “ from the gate towards the St. Anthony suburbs commonly called the “ the Recollets’ gate.”*

III. And be it further ordained, &c., that for the purposes of this ordinance, the said city of Montreal shall be, and is hereby divided into six wards, to be called respectively, East Ward, Centre Ward, West Ward, Queen’s Ward, St. Lawrence Ward, and St. Mary’s Ward.

The city divided into wards.

Boundaries
and limits
thereof.

IV. And be it further ordained and enacted, that the said wards of the city of Montreal, shall be divided, bounded and limited as follows, that is to say :—

East ward.

The East ward of the said city,—on the south-east by that part of the river Saint Lawrence opposite to and extending from Lacroix street to the extremity of Walker lane ; on the south-west by the middle of Walker lane and Saint Gabriel street, to Craig street ; on the north-west by the middle of Craig street, from Saint Gabriel street aforesaid to Sanguinet street, and continuing down Sanguinet street until it meets Saint Louis street, from thence along the middle of the said Saint Louis street, to where the said Saint Louis street meets Lacroix street aforesaid ; lastly, on the north-east by the centre of Lacroix street from Saint Louis street aforesaid, to the river or point of departure.

Centre ward.

The Centre ward of the said city shall be divided, bounded, and limited as follows, that is to say :—On the south-east by that part of the river Saint Lawrence opposite to and extending from the middle of Walker lane to the middle of the extremity of Callières street ; on the south-west by the middle of said Callières street, and crossing the interval between said Callières street and François-Xavier street, by the middle of said François-Xavier street to Craig street ; on the north-west by the middle of Craig street to Gabriel street ; and lastly, on the north-east by the middle of the said Gabriel street and Walker lane, to the river or point of departure.

West ward.

The West ward of the said city shall be divided, bounded and limited as follows, that is to say :—On the south-east by that part of the river Saint Lawrence opposite to and extending from the middle of the extremity of Callières street to the middle of the extremity of Grey Nuns' street ; on the south-west by the middle of the said Grey Nuns' street to the middle of William street, to the bottom of McGill street, continuing on the south-west by the middle of McGill street and by the middle of Commissioners' Square to Fortification or Glacis lane, thence westerly to where Fortification or Glacis lane joins the middle of Ste. Radegonde street, and thence by the middle of Saint Radegonde street to Craig street ; on the north-west by the middle of Craig street as far as Saint François-Xavier street ; and lastly, on the north-east by the middle of Saint François-Xavier street and Callières street to the river or point of departure.

Queen's ward.

The Queen's ward shall be bounded as follows :—The south-west side of Grey Nuns street, commencing at the river St. Lawrence and continuing to William street, the north-west side of William street thence to McGill street, to the south-west side of McGill street, thence to Commissioners' square, thence the south-east and south-west sides of Commissioners' square, and the south-west side of Saint Radegonde street to Lagauchetière street, thence the north-west side of Lagauchetière street to Alexander street, thence the south-west side of Alexander street to Saint Catherine street, thence the south-east side of Saint Catherine street to City Councilors street, thence the south-west side of City Councilors street to Sherbrooke street, thence the north-west side of Sherbrooke street to Durocher street, thence the south-west side of Durocher street and the extension of the same to the city boundary line, thence along the same so far as it may extend towards the south-west, thence along the said line in a south-east direction to the river Saint Lawrence, and thence to the place of beginning.

St. Lawrence
ward.

The Saint Lawrence ward shall be bounded as follows :—The north-west side of Craig Street, commencing at Sanguinet street and continuing to Ra-

degondé street, thence the north-east side of Radegonde street to Lagauchetière street, thence the south east side of Lagauchetière street to Alexander street, thence the north-east side of Alexander street to Saint Catherine street, thence the north-west side of Saint Catherine street to City Councilors street, thence the north-east side of City Councillors street to Sherbrooke street, thence the south-east side of Sherbrooke street to Durocher street, thence the north-east side of Durocher street to the city boundary line, thence along the said line towards the north-east until the same joins the extension of Sanguinet street, thence the south-west side of Sanguinet street to Craig street or the place of beginning.

The Saint Mary's ward shall be bounded as follows, all such boundaries hereinafter mentioned to be comprised within the said ward, viz :—The north-east side of Lacroix street, commencing at the river Saint Lawrence and continuing to St. Louis street, from thence the north-west side of Saint Louis street to Sanguinet street, from thence the north-east side of Sanguinet street, with the extension thereof to the city boundary, thence along the city boundary line so far as the same may be found to extend towards the north-east, thence continuing the said line in a south-east direction until the same shall reach the river Saint Lawrence, and thence along the said river to the place of beginning.

Sections 5 to 51, inclusive, are the same as sections 5 to 51 of the ordinance 3 & 4 Vict. cap. 35, to incorporate the city of Quebec, (pages 474 to 484) which see.

LII. Provided always, and be it further ordained, &c., that nothing in this ordinance shall extend or be construed to extend to revoke, alter or abridge, or in any manner affect the powers and authority now by law vested, or which may hereafter be vested in the master, deputy master and wardens of the trinity house of Montreal, or in the commissioners appointed or to be appointed for the execution of divers acts and ordinances of the legislature of this Province, relating to the improvement and enlargement of the harbour of Montreal, or any of them, or in the commissioners appointed or to be appointed for making, superintending, repairing and improving the Lachine canal, nor to the wharves and slips erected and to be erected by the said first mentioned commissioners, nor to the wharves and grounds under the direction of the said last mentioned commissioners.

Sections 53 to 56, inclusive, are the same as sections 53 to 56, of the ordinance 3 & 4 Vict. cap. 35, to incorporate the city of Quebec, pages 484 and 485, which see.

An Ordinance to amend the Ordinance to incorporate the City and Town of Montreal.

WHEREAS it is expedient to repeal in part, and to amend the ordinance of the legislature of this Province, &c., (3 & 4 Vict. cap. 36,) and to vest certain further powers in the corporation thereby constituted, and to remove certain doubts which have arisen as to the true intent and meaning of certain clauses of the said ordinance :—Be it therefore ordained and enacted, &c.—*Sections 1 to 20, inclusive, are the same as sections 1 to 20, of the ordinance 4 Vict. cap. 31, amending that incorporating the city of Quebec, pages 495 to 490, which see.*

XXI. And be it further ordained, &c., that the fourteenth section of the act of the provincial legislature passed in the forty-seventh year of the reign of Geo. 3. cap. 7, repealed.

St. Mary's ward.

This ordinance not to affect the powers and authority vested in the trinity house at Montreal, or the commissioners for the Montreal harbour or the Lachine canal.

Preamble.

Sect. 14, of 47 Geo. 3. cap. 7, repealed.

Prosecutions
to be in the
name of the
corporation.

The sides of
the new mar-
ket house may
be let.

Sect. 19 of 47
Geo. 3. c. 7, re-
pealed, and
fines imposed
by said act ap-
propriated.

of His Majesty King George the Third, and intituled, *An act for building a new market-house in the city of Montreal, for removing part of the stalls on the old market-place and regulating the same, and to authorize the borrowing a certain sum of money for those purposes*, shall be and is hereby repealed; and all prosecutions for offences against any rules or regulations, validly made or to be made concerning any market or market-place in the said city, shall and may be prosecuted in the name of the corporation of the said city, by such person or persons as the council thereof shall from time to time appoint for that purpose.

XXII. And be it further ordained, &c., that any space under cover along the sides of the market-place established by the provincial act last above cited, may be let by the said corporation for the purpose of selling or exposing to sale therein, any kind of commodity or articles whatever; any thing in the said act to the contrary notwithstanding.

XXIII. And be it further ordained, &c., that the nineteenth section of the provincial act last above cited shall be and is hereby repealed; and all fines and penalties imposed by or under the authority of the said act, or by the said council by virtue of any powers vested in them with regard to the market or market-place in the said act mentioned, shall be appropriated in the manner hereinafter provided with respect to the fines and penalties imposed by any bye-law of the said council.

Sections 24 to 42, inclusive, are the same as sections 21 to 39 of the said ordinance 4 Vict. cap. 31, (pages 491 to 495,) which see.

7. VATTEMARE INSTITUTE

4Vict. Cap. 27. An Ordinance to authorize and enable the Corporation of the City of Montreal, to erect a Public Edifice in the said City, for certain purposes.

Preamble.

WHEREAS the corporation of the mayor, aldermen and citizens of the city of Montreal, have, by their petition, represented the great public advantage to be derived from the erection in the said city of a public edifice, of such dimensions as to contain a city hall, merchants' exchange, post office and trinity-house, a large room for public meetings of the citizens, and convenient accommodation for an Institute, to be formed by the junction of all the literary and scientific societies of the said city, according to the plan of M. Alexandre Vattemare: And whereas the said corporation have further represented that the funds at their disposal, or which they are now empowered by law to raise, would be insufficient to defray the expense of erecting the said building and of purchasing ground for the site thereof, unless the other public works and improvements now requisite in the said city, were wholly or in a great measure abandoned,—and have therefore prayed to be empowered to borrow a certain sum of money for the purposes of this ordinance, over and above the sum they are authorized to borrow by any other law, and to levy by special rates and assessments, over and above those which they are or may be authorized to impose for other purposes and by virtue of any other law, such sum or sums as may be necessary to pay the interest on the sums so borrowed, and gradually to redeem the principal: And whereas it is expedient that the prayer of the said petition should be granted:—Be it therefore ordained, &c., that it shall be

lawful, &c. (*Omitted.*—*The city council may borrow £50,000, to erect a public edifice, for the purpose mentioned in the preamble.*

II. *Omitted.*—*The rate of interest on the loan may exceed six per cent.*

III. *Omitted.*—*The council may impose additional rates, &c., to pay the interest and to repay one-fiftieth of the principal in each year.*

IV. *Omitted.*—*The council may acquire ground and erect the said edifice thereon.*

V. *Omitted.*—*The said ground and building to be hypothecated for the loan.*

VI. *Omitted.*—*Unless when it is otherwise provided, the ordinances 3 & 4 Vict. cap. 36, and 4 Vict. cap. 32, shall govern the council in their doings under this ordinance.*

VII. *Omitted.*—*Separate accounts to be kept of all monies levied or expended, &c., under this ordinance, including the rents and issues of the said edifice.*

VIII. *Omitted.*—*The rates to be raised under this ordinance and the profits of the edifice, to be charged with the payment of the principal and interest of the said loan.*

IX. *Omitted.*—*On the completion of the edifice the Natural History Society of Montreal may transfer their property to the city council.*

X. *Omitted.*—*The Montreal Library and Mechanics' Institute may in like manner transfer their property to the said city council.*

XI. *Omitted.*—*After such transfer, the said societies shall form one institute, under the control of the said city council.*

XII. *Omitted.*—*The said institute to be composed of the members of the said societies—and of those who shall thereafter become members of the institute according to the bye-laws thereof.*

XIII. *Omitted.*—*A general meeting of the members to be called by the mayor for the election of a president and council of the said institute.*

XIV. *Omitted.*—*The council to be elected annually.*

XV. *Omitted.*—*The president may call meetings of the members, twelve of whom shall form a quorum.*

XVI. *Omitted.*—*The members of the institute may make bye-laws for various purposes concerning it; which shall be valid after being sanctioned by the city council.*

XVII. *Omitted.*—*Contributions and fines to be recovered in the same manner as assessments, &c., and used for the purposes of the institute.—See tables.*

XVIII. *Omitted.*—*The members of the city council to be honorary members of the institute.*

XIX. *Omitted.*—*Officers may be appointed, and paid for their services out of the funds of the institute.*

XX. *Omitted.*—*The library and museum of the institute to be deposited in the said public edifice. The city council to pay the debts, &c., of the Montreal Natural History Society.*

XXI. *Omitted.*—*The city council may receive donations or legacies for the support of the institute.*

XXII. *Omitted.*—*The library and museum to be open to the public.*

XXIII. *Omitted.*—*After the establishment of the institute, 9 Geo. 4, cap. 44, and all acts or parts of acts relative to the Montreal Natural History Society, repealed.*

XXIV. *Omitted.*—*An annual sum to be appropriated by the city council for increasing the library, museum, &c.*

XXV. *Omitted.*—*This ordinance to be permanent, but the assessments under it to cease when the said loan and interest are paid off.*

XXVI. *Omitted.*—*This ordinance to be a public act.*

8. COMMON OF MONTREAL.

1 Will. IV.
Cap. 10.

An Act to vest in the City of Montreal, the property of the Common of Montreal, and for other purposes relating to the said Common.

Preamble.

WHEREAS the seigniors of the island of Montreal, did, in the year of Our Lord one thousand six hundred and fifty-one, concede and set apart forty arpents of land within the said island, as a common for the use of the inhabitants of the city of Montreal, reserving to themselves the right of resuming and revoking the whole or any part of the said grant, if they should deem it expedient, on condition of their granting and conceding at the same place and for the same purpose, an equal extent of land; and whereas the seigniors of Montreal have in fact resumed the greater part of the said land, on which a considerable portion of the city of Montreal is now built, but the deed by which they granted and substituted other forty arpents of land, in the place and stead of the land granted under the deed first above mentioned cannot be found; and whereas the present seigniors in possession of the said island of Montreal, being satisfied that the deed mentioned in the second place was passed, but cannot now be produced, are willing to grant a new title to the said last mentioned forty arpents, in favor of such persons as may be authorized to accept the same; and whereas it is now very difficult, if not altogether impossible, to ascertain what persons among the owners of real property in the said city, are the representatives of those who by their titles had a right of common in the said land, and to whom it would be now competent to accept such grant or concession; and whereas the said land cannot now be appropriated with advantage to the purpose for which it was originally set apart, by reason of its proximity to the city of Montreal and to the Lachine canal, which is in part cut through it; and whereas the said land having been for a long time unoccupied, is subject to be daily encroached upon by individuals, because there is no person whose right to resist such encroachment can be established; and whereas it is of great importance to the interest of the said city of Montreal, that the possession of the said land should be secured to the said city, to the end that it may be appropriated to purposes of public utility and convenience:—Be it therefore enacted, &c., that from and after the passing of this act, it shall and may be lawful for three or more justices of the peace resident in Montreal, and they are hereby authorized to accept, in the name

Justices of the
peace in Mont-
real may ac-
cept, in the

of the said city of Montreal, from the ecclesiastical community of the Seminary of Saint Sulpice at the aforesaid place, seigniors in possession of Montreal aforesaid, a new deed or grant, or a deed confirming and ratifying that which was formerly made, so as to vest in the said justices of the peace, for and in the name of the said city of Montreal, the property of the common, containing about forty arpents in superficial extent, situate in the place called *La Plaine Sainte Anne*, and lying between the river Saint Lawrence, and that part of the Fief Nazareth whereon the Sainte Anne suburb now stands : Provided always, that the said seigniors shall not be liable nor responsible for encroachments which may have been made on the said common by any person or persons whomsoever. name of that city, a new deed or grant of the common. Proviso.

II. *Omitted.*—*This act not to authorize the justices or the corporation to interfere with the ground occupied for the Lachine canal.*

III. *Omitted.*—*The common to become public property, and be under the control of the justices of the peace in the city.*

IV. *Omitted.*—*Justices may enclose the said common, but may not alienate any part thereof.—But see Tables.*

V. And be it further enacted, &c., that so soon as an act shall be passed for the incorporation of the city of Montreal, the said land and all its appurtenances shall become the absolute property of and be vested in the said corporation of the said city, as shall also all deeds, contracts and plans, which shall then be in the possession of the said justices ; and that the said corporation shall be fully invested with all the rights, and be entitled to all the profits and revenues, and shall be subject to all the duties and obligations, to which by virtue of this act, the said justices of the peace may be entitled or subjected, or to which they may be subject at the time of the passing of the said act of incorporation : Provided always, that the said corporation shall have the right of selling or otherwise disposing of the ground of the said common, the ground herein reserved for the purposes of the Lachine canal excepted, without the intervention of the legislature. As soon as an act is passed for incorporating the city of Montreal, the common to become the absolute property of the corporation. Proviso. See Tables.

VI.—*Omitted.* *The rights of the King, and all other parties saved,*

9. MARKET NEW AT MONTREAL.

An Act for building a new Market-House in the City of Montreal, for removing part of the Stalls on the old Market-Place, and regulating the same, and to authorize the borrowing a certain sum of money for those purposes. 47 Geo. III. Cap. 7.

WHEREAS the square in the city of Montreal, now in use as the public market place, is too small in extent and otherwise inconvenient for the numerous and increasing population of the said city, and a new square or space of ground has been ceded to the magistrates of the said city of much greater extent and convenience, on the condition and for the special purpose that the said new square shall be constituted and declared a public market-place, in and for the said city of Montreal ; and the magistrates aforesaid having declared that the said new square shall become a public market-place, in conformity to an act, (36 Geo. 3. cap. 9.) : And whereas the said magistrates, for the convenience of the inhabitants of the said city, and of all other persons resorting thereto, are desirous of erecting Preamble. 36 Geo. 3. cap. 9, cited.

Magistrates of
the city and
district of
Montreal con-
stituted trust-
tees.
See Tables.

in the said new square, a suitable and convenient market-house, with stalls for selling and exposing to sale, all kinds of butcher's meat ; for which purpose, the said magistrates have by petition to the legislature of the Province, prayed for leave to borrow a certain sum of money, to be laid out in the building of such market-house, with stalls, and further to authorize them to mortgage the rents or profits that may arise from letting out the said stalls, as security for the principal and interest of the money so borrowed :—May it therefore please Your Majesty, &c., and be it enacted, &c., that the magistrates for the city and district of Montreal, or any five of them, being resident within the said city of Montreal or the suburbs thereof, are hereby constituted and appointed trustees for the purpose of carrying this act into effect.

II. *This section is effete, as are also sect. IX and XI.—See tables.*

III. *Omitted.—The trustees may borrow £2500 for erecting a market-house in Montreal: part of which may be made an engine house.—See tables.*

IV. *Omitted.—The principal and interest of the money borrowed, may be secured by hypothecs on the rents and profits of the market. Such hypothecs to be transferable.*

V. *Omitted.—The trustees, when they have funds, shall pay off the principal and interest of the sum borrowed, in sums equal to ten per cent. on the capital.*

VI. *Omitted.—The trustees may let out the stalls.—(See tables.)—And may appoint a treasurer.*

VII. *Omitted.—The trustees may let out the stalls, &c., for other purposes than the sale of butchers' meat.*

VIII. *Omitted.—The justices of the peace may allow fees to the clerk of the market.—See tables.*

X. *Omitted.—Penalty for selling butchers' meat at any other place than the market, whenever forty stalls shall have been erected.—(See tables.)—Any butcher may sell meat at his own house or shop ; persons other than butchers, may sell provisions on the square of the old market-place or on the streets bounding the new market-house, &c.—See tables.*

XII. *Omitted.—After payment of principal and interest, the remainder to be paid to the road treasurer, except the fines, &c.—See tables.*

XIII. *Omitted.—Penalty on persons injuring, &c. the new market-house, &c.—See tables.*

Sections XIV and XIX are repealed.—See tables.

XV. *Omitted.—The trustees may act as justices of the peace.—See tables.*

XVI. *Omitted.—Suits may be brought against offenders in the name of the trustees, before any two justices. Appeal.—See tables.*

XVII. *Omitted.—Rents, penalties, &c., may be levied by distress.—See tables.*

XVIII. *Omitted.—Prosecutions for offences against this act, or actions for things done under it, to be brought within one month.*

XX. *Omitted.—This act to be a public act.*

An Act to declare the forty Stalls erected by order of the Magistrates of the City of Montreal, on the New Market-Place, to be in lieu of, and considered as the Market-House, with Stalls, intended by an Act of the forty-seventh year of His Majesty's Reign, chapter seventh; and to put in force the other provisions of the said Act. 49 Geo. III. Cap. 5.

WHEREAS forty commodious and durable stalls for the purpose of selling butchers' meat have been erected in the new market-place of the city of Montreal, and that there still remains space for erecting others of similar construction, and which stalls will answer the purpose intended by an act, &c., (47 Geo. 3. cap. 7) :—May it therefore, &c., and be it enacted, &c., that from and after the passing of this act, the act, &c., (48 Geo. 3. cap. 4,) shall be and is hereby repealed; and the forty stalls erected on the said new market-place, for the purpose of selling and exposing to sale all kinds of butchers' meat, with such other stalls of similar construction, as by authority of the magistrates of the city of Montreal may be erected on the said new market-place, shall be taken and considered as the new market-house, with stalls, intended by the aforesaid act of the forty-seventh year of His Majesty's reign, chapter seventh; and that henceforth, all the provisions thereof shall be in force and carried into effect accordingly, except in so much as relates to the selling of the butchers' stalls on the old market-place, which shall be let out by public auction or by private contract at the same time and in the same manner as the stalls of the new market-place, and be subject in all things to the same provisions of the law. Preamble.
Act 48 Geo. 3. cap. 4, repealed.
The stalls erected by the magistrates on the new market-place, to be considered as the market-house intended by 47 Geo. 3. cap. 7.
See Tables.

An Act to establish a New Public Square at Montreal, and for other purposes therein mentioned. 6 Will. IV. Cap. 7.

ON the petition of the mayor and common council of the city of Montreal, praying that the market-place commonly known by the name of *The new market*, may be enlarged, and praying also that the corporation of the city of Montreal may, for that purpose, be enabled to purchase a certain lot of ground, forming part of the estate of the late Bazile Proulx,—and to borrow a certain sum of money, as well to purchase the said ground as for other purposes mentioned in their said petition; and whereas the said lot of ground was subjected to entail (*grevé de substitution*) by the will of the said Bazile Proulx, and therefore cannot be sold without the intervention of the legislature, by reason of the impossibility of ascertaining to whom the said ground will belong when the entail shall determine: and whereas it would be advantageous that the said ground should be at the disposal of the corporation of the city of Montreal :—Be it therefore enacted, &c., that the said corporation of the city of Montreal may and they are hereby authorized, within twelve months after the passing of this act, to purchase the said lot of ground, &c., (*This section and section II, are effete.*—See tables. Preamble.
Corporation authorized to purchase a lot of ground to enlarge new market.

III. And be it further enacted, &c., that the price of the said ground, house and appurtenances shall represent the property so entailed and shall be subject to all the provisions of the will of the said late Bazile Proulx. Price of the ground to represent the property.
See Tables.

IV. Omitted.—*The heirs and legatees of the late Bazile Proulx not to receive the principal of the purchase money until the entail shall determine, except on giving security that it shall be paid to the proper parties when the entail shall determine.*

V. *Omitted.*—The corporation may make a public market-place of the said ground and the public ground adjoining it.—See tables.

VI. *Omitted.*—The corporation may erect stalls, wharves, &c., on the ground.

VII. *Omitted.*—The corporation may borrow £10,000 for the purposes of this act.—See tables.

VIII. *Omitted.*—The issues and profits specially appropriated to pay the loan and interest.

IX. *Omitted.*—Saving of the rights of the Crown and others.

10. MARKET, ST. ANNE'S, AT MONTREAL.

An Act for the establishment of a New Market at Montreal.

7 Geo. IV.
Cap. 14.

Preamble.

A certain space
of ground ap-
propriated for a
market place.

Justices of the
peace to be
trustees.

See tables.

WHEREAS the market-places now in use in the city of Montreal are insufficient for the public convenience of the said city; and whereas the ground commencing at the bridge at the end of Saint François Xavier street, and lying between Foundling and Commissioners' streets, and extending from the said bridge up to the new bridge at the extremity of McGill street, is a convenient situation for a new market, as divers of the inhabitants of Montreal have, by their petition to the legislature in this behalf, represented:—May it therefore, &c., and be it enacted, &c., that the said space of ground, commencing at the bridge at the end of Saint François Xavier street, and lying between Foundling and Commissioners' streets, and extending from the said bridge up to the new bridge at the extremity of McGill street, shall be, and the same is hereby appropriated and set apart for a market-place; and that the justices of the peace residing in the said city of Montreal, or any five of them, named at any general meeting to be specially convoked, and held at any time in the month of June next, for the purpose, are hereby constituted and appointed trustees for the purpose of carrying this act into effect.

II. *Omitted.*—The rivulet on said ground not to be obstructed.

III. *This section is effete.*—See tables.

IV. *Omitted.*—The trustees may borrow £2,500 for defraying the expenses of building, &c.—(See tables.)—Part of the market-house may be employed as an engine-house, &c.

V. *Omitted.*—The rents and profits of the market, &c. may be hypothecated for surety of the money borrowed; hypothecs to be transferable.—See tables.

VI. *Omitted.*—After paying the interest the trustees may pay the principal, in sums equal to five per cent. on the amount borrowed.

VII. *Omitted.*—The trustees may lease the stalls privately or by auction. (See tables.) Rents to be paid to their treasurer.

VIII. *Omitted.*—Stalls, &c., remaining unlet to butchers, may be leased for other purposes.—See tables.

IX. *Omitted.*—Clerk of the market to be allowed fees, not exceeding a certain amount.—See tables.

X. *Omitted.*—*This act not to prevent farmers and others selling their produce, &c. on the market.*—*See tables.*

XI. *Omitted.*—*When the loan is paid off, the rents, &c. to make part of the funds of the city.*

XII. *Omitted.*—*Penalty on persons injuring the market-house, &c. (See tables.)—Offender may be committed in default of payment.*

XIII. *Omitted.*—*The clerk of the market to cause regulations to be carried into effect, &c.—(See tables.)—Penalty for neglect.*

XIV. *Omitted.*—*The trustees may act as justices of the peace, &c.—See tables.*

XV. *Omitted.*—*Offenders may be sued before two justices of the peace, &c.—(See tables.)—Appeal to the quarter sessions in cases over £5.*

XVI. *Omitted.*—*Rents and penalties may be levied by distress.—See tables.*

XVII. *Omitted.*—*Suits against offenders, or for things done under this act, to be commenced within one month from the fact.*

XVIII. *Omitted.*—*Penalties to be received by the sheriff and paid to the receiver general, &c.—See tables.*

XIX. *Omitted.*—*This act to be a public act.*

AN Act to amend an Act passed in the seventh year of His Majesty's Reign, for the establishment of a New Market at Montreal, and to extend the provisions of the same. 9 Geo. IV.
Cap. 38.

WHEREAS it is expedient to amend a certain act, &c., (7 Geo. 4. Preamble. cap. 14,) and to extend the provisions of the same:—Be it therefore enacted, &c., that in case of the death, resignation, &c. (This section, and sections II, IV and V, are effete.—(See tables.)

III. *Omitted.*—*The trustees under 7 Geo. 4. cap. 14, may borrow £12,500 in lieu of the sum authorized by the said act; and if the same is not sufficient, they may borrow a further sum of £1,000.*

VI. *Omitted.*—*The provisions of the said act extended to any ground granted by His Majesty for the use of the new market, the property of such ground to be vested in the trustees.*

VII. *Omitted.*—*This act to be a public act.*

AN Ordinance to amend certain Acts therein mentioned, relative to a certain Market at Montreal. 2 Vict. (3)
Cap. 60.

WHEREAS by a certain act, &c., (7 Geo. 4. cap. 14,) the justices of the peace residing in the city of Montreal, or any five of them, be appointed in the manner therein mentioned, were constituted trustees or carrying the said act into effect; and whereas by a certain other act, &c., (9 Geo. 4. cap. 38,) it is enacted among other things, that any vacancy in the number of such trustees, shall from time to time, be filled up in the manner therein mentioned, so that such number may always be complete, and that all the provisions of the act first above cited, shall be extended to any lot or lots of ground which might thereafter be granted by His Preamble.

Majesty, His Heirs and Successors, for the use and benefit of the said market, and that the property of such lot or lots should be vested in the trustees aforesaid, and their successors in office, for the purposes of the said act first above cited; and whereas a certain lot of ground was thereafter granted by His late Majesty King William the Fourth, to the said trustees, and for the said purposes, and the said trustees, for the time being, have represented that it would be highly advantageous for the said market, and for the city of Montreal, that they should be authorized and empowered to let the said lot of ground so granted, or any part of it, by lease, for the term of thirty years, or thereabouts, which, under the provisions of the said acts, they cannot do; and whereas it is expedient to authorize and empower them to that effect:—Be it therefore ordained, &c.—*Omitted.*—*The trustees appointed under 7 Geo. 4. cap. 14, may let out by lease the lot of ground granted for the use of the market established under the said act: Provided they do nothing contrary to the letters patent by which the lot was granted.—But see tables.*

11. MARKET, ST. LAWRENCE SUBURB, MONTREAL.

1 Will. IV. An Act to repeal two certain Acts therein mentioned, and to
Cap. 36. provide for the better regulation of the Market-Place in the
Saint Lawrence Suburb, Montreal.

Preamble.

9 Geo. 4. cap.
40, and 10 & 11
Geo. 4. cap. 30,
cited.

The said acts
repealed.

WHEREAS a market-place has been established, and suitable buildings erected thereon, in the Saint Lawrence suburb of the city of Montreal, under the authority of a certain act passed in the ninth year of the reign of His late Majesty, and of another certain act passed in the tenth and eleventh years of the reign of His late Majesty; and whereas the persons named as trustees of the said market-place, in the act first above cited, have by their petition to the legislature, prayed that the said market-place be declared a public market-place, and as such placed under the control of the magistrates of the city of Montreal, and the revenues arising therefrom appropriated and hypothecated for the surety and payment of the monies borrowed or advanced, and expended by the said trustees, under the authority of the said acts, and for the purchase of the ground on which the said market-place is established:—Be it therefore enacted, &c., that the said act, &c., (9 Geo. 4. cap. 40,) and the said act, &c., (10 & 11 Geo. 4. cap. 30) shall be and the same are hereby repealed.

II. *Omitted.*—*The new market-place declared a public market-place. See tables.*

III. *Omitted.*—*The buildings on the said market-place to be insured by the justices of the peace against fire. Rents, &c., to be hypothecated for the money borrowed by the trustees, deducting the expenses of the market.—See tables.*

IV. *Omitted.*—*Justices of the peace, when they have funds, and after paying the interest, to pay off the said loan, by instalments of not less than five per cent.*

V. *Omitted.*—*After the loan is paid off, the rents, &c., to make part of the funds for improving the city.*

VI. *Omitted.*—*This act to be a public act.*

12. MARKET AT PRÈS-DE-VILLE.

An Ordinance to repeal a certain Act therein mentioned, relative to a certain Market-Place at Près-de-Ville, in the City of Montreal. 2 Vict. (3.)
Cap. 33.

This ordinance merely repeals the act 9 Geo. 4. cap. 39, and reverts the said market in the original proprietors; providing that they shall have no claim for any balance of interest on the sum ascertained, under the said act, as the value of the market, and that the ordinance shall give them no better title than they would have had if the said act had never been passed.

13. WATER-WORKS, AT MONTREAL.

An Act for supplying the City of Montreal and the parts thereunto adjacent with Water. 41 Geo. III.
Cap. 10.

By the act of Canada, 7 Vict. cap. 44, the corporation of the city of Montreal is authorized to purchase the water-works, &c., erected under this act (41 Geo. 3. cap. 10) from the company established by it, in which case the exclusive privilege of the said company to supply the city of Montreal and the parts adjacent with water, during 50 years from 4th April, 1801, and their other rights, will become vested in the corporation of the said city, who will be bound by the provisions of this act, in so far as they may be applicable, and consistent with the said 7 Vict. cap. 44, and the ordinances 3 & 4 Vict. cap. 36 and 4 Vict. cap. 32.

14. OFFICERS' HORSES EXEMPTED FROM ASSESSMENT.

An Ordinance to exempt certain Officers of Her Majesty's Army from the payment of the Rate or Assessment therein mentioned, in the Cities of Quebec and Montreal. 3 & 4 Vict.
Cap. 39.

WHEREAS in and by a certain act, &c., (39 Geo. 3. cap. 5,) it is among other things in effect enacted, that there shall be paid to the road treasurer of the cities of Quebec and Montreal, respectively, on or before the first day of July in every year, by every person keeping a horse or horses within the aforesaid cities, for each and every horse (colts excepted) that any such person shall keep, the sum of seven shillings and six pence; and that the payment of the said sum shall be held and taken instead of the labour or composition money required for every horse by a certain act, &c., (36 Geo. 3. cap. 9.): And whereas by the act first above cited, it is provided, that no duty shall be required or received for any horse or horses kept by any officer of any regiment or part of a regiment or corps, in garrison in the cities of Quebec and Montreal, for the time being, unless that any such officer be upon the staff of the army serving in this Province, or upon the staff of the garrison; and whereas it is expedient and right that such officers of the staff of the army, or of the garrison, should be exempt from the payment of such duty, in like manner as other officers of Her

Preamble.

Staff officers
exempted from
the payment of
the tax on
horses.
See Tables.

Majesty's army in garrison in either of the said cities are exempt,—subject to the limitation hereinafter provided :—Be it therefore ordained, &c., that from and after the passing of this ordinance, no duty shall be required or received under the act of the provincial parliament herein first above cited, for any horse or horses kept by any officer upon the staff of the army serving in this Province, or upon the staff of the garrison in either of the cities of Quebec or Montreal, not exceeding the number of horses for which such officer is entitled by the regulations of Her Majesty's army, to draw forage; nor shall any labour or composition money be required or paid for any such horse or horses under the act of the provincial legislature herein secondly above cited; any thing in the said acts of the said provincial parliament to the contrary notwithstanding.

This ordinance made permanent:

II. And be it further ordained, &c., that this ordinance shall be and is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

15. MARKET AT THREE-RIVERS.

4 Geo. IV.
Cap. 29.

An Act for the permanent establishment of two Public Market-Places in the Town of Three-Rivers.

Preamble.

WHEREAS several inhabitants of the town of Three-Rivers, did, with a view and for the purpose of establishing a public market-place for the said town, purchase by deed, bearing date the seventh day of November, one thousand eight hundred and three, a certain lot of ground of eighty feet in front by fifty feet in depth, situate in the centre of the said town, on the south-west side of Forges street, and which lot of ground accordingly hath ever since been used as a public market-place for the said town, and hath by the acquisition of an adjacent lot of eighty feet in front by forty in depth, purchased for the purpose, by several inhabitants of the aforesaid town, by deed bearing date the thirteenth day of October, one thousand eight hundred and nineteen, been enlarged, so that the said market-place now forms a space or lot of eighty feet in front by ninety feet in depth,—bounded in front by Forges street, in rear and on the south-east side by Pierre Défossés, representing the late Jean Baptiste Duguay Duplacy, and on the north-west side by the property of Moses Hart, representing Charles Métot; And whereas the president and trustees of the corporation of the common of the said town of Three-Rivers, have for the purpose of erecting another public market-place for the said town, reserved on the said common, a lot of ground, consisting of about three hundred feet in width by about eighty feet in depth,—bounded in front by Saint Phillip street, and in rear by the respective properties of George Carter, esquire, Joseph Lafontaine, the representatives of the late François Dessureau and François Garceau, on the south-west side by Saint Roch street, and on the north-east side by Saint George street;—which said two lots of ground having heretofore been used as public market-places, the inhabitants of the said town of Three-Rivers, have, by a petition in this behalf to the legislature, prayed that the same may be reserved and appropriated for ever hereafter, for the purposes of public market-places :—May it therefore, &c., and be it enacted, &c., that the said lots of ground herein-above mentioned, situate at Three-Rivers aforesaid, that is to say,—the said lot consisting of eighty feet in front

Certain lots of ground situate at Three-Rivers, reserved.

by ninety feet in depth, bounded in front by Forges street, in rear and on the south-east side by Pierre Défossés, representing the late Jean Baptiste Duguay Duplacy, and on the north-west side by Moses Hart, representing Charles Métot,—and the said lot consisting of about three hundred feet in width by about eighty feet in depth, bounded in front by Saint Phillip street, and in the rear by the respective properties of George Carter, esquire, Joseph Lafontaine, the representatives of the late François Dessureau and François Garceau, on the south-west side by Saint Roch street, and on the north-east side by Saint George street,—shall be and the same are hereby respectively reserved for ever hereafter for the uses of public market-places, for the said town of Three-Rivers; and the same shall respectively be liable to be regulated by such salutary rules and regulations of police, not contrary to the laws of the Province, as may hereafter be provided for the purpose, from time to time, as circumstances may require, and according to law.

II. *Omitted.*—*The rights of the Crown and of other parties saved.*

III. *Omitted.*—*This act to be a public act.*

16. MARKET AT SAINT HYACINTHE.

An Act to establish a Market in the Village of Saint Hyacinthe. 10 & 11 Geo. IV. Cap. 42.

WHEREAS a donation of a certain lot of ground in the village of Saint Hyacinthe, one hundred and twenty-eight feet in front by two hundred and fifty-one in depth, bounded on the north-east by a prolongation of Saint François street thirty-six feet in width, on the south-west by a prolongation of Saint Simon street of the same width, on the north by a prolongation of Cascade street of the same width, and on the east by a prolongation of Saint Antoine street of the same width, was by a deed passed before Dessureau and Brunelle, notaries at Saint Hyacinthe, on the thirtieth day of January one thousand eight hundred and thirty, made by Jean Dessaulles, esquire, to Jean François Tetu, esquire, notary and inspector for the said village of Saint Hyacinthe, Eusèbe Cartier, esquire, Dominique Casavant, Lambert Sarassin and Joseph Martel, trustees appointed for the said village of Saint Hyacinthe, as such, and to their successors, to have and to hold the said lot of ground to them the said inspector and trustees, and their successors in their said quality, as a market-place, and not otherwise: the said donation and grant made under the charges and according to the following provisions and conditions, that is to say;—that the said lot of ground should not be charged within any *cens et rentes* whatever, that the inspector and trustees should obtain an act from the legislature during the present session of the provincial parliament for the establishment of a permanent market-place for the village of Saint Hyacinthe; that possession of the said lot of ground granted should be given on the first of August next: And whereas it was expressly agreed and determined by and between the said Dessaulles and the said inspector and trustees, that in case the market should cease to exist either by virtue of an act of the legislature repealing the act establishing it, or by its ceasing to be used or occupied, or in any other manner, the property of the said lot of ground should as a matter of right become again vested in the said Jean Dessaulles, his heirs or assigns, without it being necessary for them to have recourse to any formality of or

Lot of ground set apart and appropriated, in the village of Saint Hyacinthe for a public market.

proceedings at law, such being the intention of the said Jean Dessaulles and the said donation being specially made on the said conditions ; And whereas it is expedient to adopt legislative provisions for the establishment of the said market in the said village of Saint Hyacinthe :—Be it therefore enacted, &c., that the said lot of ground shall be and the same is hereby set apart and appropriated as the spot on which a public market shall be held in and for the said village of Saint Hyacinthe, according to the provisions and conditions of the said donation.

The remainder of this act, which applies exclusively to the village of St. Hyacinthe, is omitted. It provides for the election of trustees and for the management and regulation of the said market through them.

CLASS. I.

Relating to Education and Educational Establishments.

1. Common schools, elementary education.
2. Royal institution.
3. Normal schools.
4. Colleges at Chambly, St. Anne's, and St. Hyacinthe.

1. COMMON SCHOOLS,—ELEMENTARY EDUCATION,

4 Geo. IV.
Cap. 31.

An Act to facilitate the establishment and the endowment of Elementary Schools in the Parishes of this Province.

Preamble.

Fabriques enabled to purchase Lands, &c., to a certain amount, without letters of mortmain.

WHEREAS the institution of elementary schools in the several parishes of this Province, in diffusing the principles of a good moral education, will contribute to promote industry and agriculture ; and whereas it is necessary to provide means for facilitating their establishment :—Be it therefore enacted, &c., that each and every *Fabrique* in this Province, shall be, and is hereby authorized and declared capable of acquiring, purchasing, taking, receiving and holding, without letters of *mortmain*, all lands, tenements, real property, *rentes constituées*, monies, chattels, or other personal property which may be conceded, sold, given, devised or bequeathed either by *donation entre vifs, à cause de mort*, testamentary disposition, or by whatsoever other manner, for the purpose of founding and supporting one or more elementary school or schools within the parish to which such *Fabrique* shall belong, in the manner and to the amount and annual income hereinafter prescribed.

Property so held by the *Fabriques*, to be sold *à constitution de rente* for the benefit of elementary schools.

II. Provided always, and be it further enacted, &c., that when any lands, tenements, houses or other real estate, shall in any way or manner as aforesaid be conceded, sold, given, devised or bequeathed to any such *Fabrique*, for the purposes aforesaid, such *Fabrique* shall, within ten years from and after the date of the instrument by which the same shall have been so conceded, sold, given, devised or bequeathed, sell and dispose of such lands, tenements, houses, or real estate, *à constitution de rente*, for the benefit of

the elementary school or schools to be by them founded and established by virtue of this act, in the manner hereinafter mentioned : Provided further, The *Fabrique* that out of any lands which shall be conceded, sold, given, devised or bequeathed as aforesaid, such *Fabriques* shall and may, and they are hereby authorized to hold, retain and reserve such part, not exceeding in the whole one acre of superficial extent thereof, as may be necessary for an *emplacement* for the erection of a school house thereon.

III. Provided also, and be it further enacted, &c., that the property, real or personal, which may be required or held as aforesaid by any *Fabrique*, for the first erection and establishment of each school to be by them established in virtue of this act, shall not exceed in the whole value thereof, the capital or sum of one hundred pounds, current money of this Province ; and that the funds, tenements, houses, *rentes constituées*, monies, goods, chattels, or other property real or personal, which may be constituted, acquired or held by such *Fabrique*, for the maintenance and support of the schools so to be established, shall not at any time exceed in the whole annual income thereof, the sum of fifty pounds, current money of this Province, for each and every school to be by them established in virtue of this act.

IV. And be it further enacted, &c., that it shall and may be lawful for the *Fabrique* of each and every parish in this Province, and they are hereby authorized to establish one school ; and when the number of families actually domiciliated and resident in the parish to which such *Fabrique* shall belong, shall amount to two hundred, then such *Fabrique* shall be and is hereby authorized to establish a second school, and so on in the proportion of one school for every hundred families so domiciliated and resident.

V. Provided also, and be it further enacted, &c., that the said schools, and the property, rents or funds of any description which shall be acquired, held or constituted for their foundation, endowment and support, shall be under the inspection and administration of the same persons, and subject to the same rules which are prescribed by the laws and usages of this Province, for the government and administration of the property and establishments of the said *Fabriques*.

VI. And be it further enacted, &c., that in order to establish and maintain the schools which may be opened and established at any time hereafter by virtue of this act, every *Fabrique* shall be entitled, until it shall have acquired property for establishing and maintaining the said schools, to apply out of its annual income in the several parishes in which such schools may be opened and established under and by virtue of this act, a sum of money not exceeding in any case one fourth of the actual income of such *Fabrique* : Provided nevertheless, that no such application of the funds of a *Fabrique* shall take place, without observing the same formalities usually had and practised in the parishes of this Province, when monies belonging to a *Fabrique* are applied to objects other than those to which they were originally designed.

VII. And be it further enacted, &c., that the said *Fabriques* shall annually render an account, in writing, on the third Sunday after Easter, at a meeting of the resident landholders in the parish, stating the income and expenditure of the said schools, for the twelve preceding months, and the number of pupils and the name of the school-master ; which account shall be deposited in the archives of the *Fabrique*, and a copy thereof duly cer-

tified by a public notary and two witnesses, shall also within six weeks after the aforesaid meeting, be deposited in the office of the prothonotaries of the court of King's bench of the district, to which copy, all persons being resident landholders of this Province, shall have free access without paying any fee.

This act to be
a public act.

VIII. And be it further enacted, &c., that this act shall be deemed and taken to be a public act, and as such shall be judicially taken notice of by all judges, justices of the peace, and all other persons whomsoever, without being specially pleaded.

7 Geo. IV.
Cap. 20.

An Act declaratory, to explain the provisions of an Act passed in the fourth year of His Majesty's reign, chapter thirty-one, relating to Elementary Schools in this Province.

Preamble.

Section 3, of 4
Geo. 4. cap. 31.
explained.

WHEREAS it is expedient to explain an act passed in the fourth year of His Majesty's reign, chapter thirty-one :—Be it therefore enacted, &c., that in all cases where any *Fabrique* in this Province hereafter shall acquire, whether by donation, legacy or purchase, any land or tenement not exceeding in the whole one superficial acre in extent, upon which there may be a house or edifice fit and proper for the purpose of a school, under an act passed, &c. (4 Geo. 4. cap 31.) such *Fabrique* may hold and retain the said land and tenement, with the house or edifice thereon erected and being, although such house or edifice may exceed in value the annual income of fifty pounds, currency.

2. ROYAL INSTITUTION.

41 Geo. III.
Cap. 17.

An Act for the establishment of Free Schools and the advancement of Learning in this Province.

MOST GRACIOUS SOVEREIGN.

Preamble.

See Tables.

Governor empowered to appoint trustees of the schools of Royal foundation.

WHEREAS Your Majesty, from Your paternal regard for the welfare and prosperity of Your subjects of this Province, hath been most graciously pleased to give directions for establishing a competent number of free schools for the instruction of their children in the first rudiments of useful learning, and also as occasion may require, for foundations of a more enlarged and comprehensive nature ; And whereas Your Majesty hath been further most graciously pleased to signify Your royal intentions, that a suitable proportion of the lands of the Crown, be set apart, and the revenue thereof appropriated to such purposes :—Therefore we, Your Majesty's faithful and loyal subjects, the legislative council and assembly of Your Province of Lower Canada, with the most lively gratitude for this new instance of Your Majesty's paternal attention to the wants of Your Majesty's subjects, and desirous to contribute every thing in our power, for the execution of a plan so peculiarly beneficial to the rising generation, do most humbly beseech Your Majesty, that it may be enacted, and be it enacted, &c.—that it shall and may be lawful to and for His Excellency the Governor, Lieutenant-Governor, or person administering the government of this Province, for the time being, by an instrument under the great seal of this Province, to constitute and appoint such and so many persons as he shall see fit, to

be trustees of the schools of Royal foundation in this Province, and of all other institutions, of Royal foundation, to be hereafter established for the advancement of learning therein, as also for the management and administration, improvement and amelioration of all estates and property, moveable or immoveable, which shall in any manner or way whatsoever, be hereafter appropriated to the said schools and institutions, for the purposes of education and the advancement of learning, within this Province,—to remove, from time to time, the said trustees or any or either of them, and to appoint others to be the successors of such as shall be so removed, or shall die, or resign their trust.

II. And be it further enacted, &c., that the said trustees and their successors, to be named in manner hereinbefore directed and appointed, shall be and they are hereby declared to be, a body corporate and politic, in name and in deed, by the name of *The Royal Institution for the advancement of learning*; and that by the same name, they shall have perpetual succession and a common seal, with power to change, alter, break and make new the same, when and as often as they shall judge the same to be expedient; and that they and their successors, by the same name, may sue and be sued, implead and be impleaded, answer and be answered unto, in all or any court of record or places of judicature within this Province; and that they and their successors, by the name aforesaid, shall be able and capable in law, to purchase, take, have, hold, receive, enjoy, possess, and retain, without licence in mortmain or *lettres d'amortissement*, all messuages, lands, tenements and immoveable property, money, goods, chattels and moveable property, which hereafter shall be paid, given, granted, purchased, appropriated, devised or bequeathed in any manner or way whatsoever, for and in favor of the said schools and institutions of Royal foundation, to and for the purposes of education and the advancement of learning, within this Province, and to do, perform and execute all and every lawful act and thing, in as full and ample manner and form, to all intents, constructions and purposes, as any other body politic or corporate, by law, may or ought to do.

III. And be it further enacted, &c., that all lands, messuages, tenements and hereditaments and immoveable property, and all rents, sum and sums of money charged upon, and issuing or payable out of any messuages, lands, tenements, hereditaments or immoveable property, and all sum or sums of money, goods, chattels, effects or moveable property, which shall hereafter be paid, given, granted, purchased, appropriated, devised or bequeathed in any manner or way whatsoever, for and in favour of the said schools and institutions of Royal foundation, to and for the purposes of education and the advancement of learning within this Province, shall be and the same are hereby vested in the said trustees and their successors, to and for the uses and purposes herein mentioned, declared and enacted, concerning the same; And that the said trustees, or the major part of them, shall and may have power and authority to demise, let and lease such messuages, lands, tenements, hereditaments and immoveable property, as shall or may be so as aforesaid given, granted, purchased, appropriated, devised or bequeathed, for any term of years not exceeding twenty-one years, and have, take and receive the rents, issues and profits thereof: Provided always, that the said trustees, from time to time, shall pay or cause to be paid into the hands of the receiver general of this Province for the time being, all and every such rents, issues and profits, sum and sums of money, which they shall receive by virtue of this act, forthwith upon the receipt thereof, sub-

Such trustees to be a body corporate and politic.

To have perpetual succession, and a common seal.

Authority to purchase property without letters of mortmain.

Property vested in the trustees.

Authority to demise the property.

Rents, &c., to be accounted for to the receiver general, and by him to the Crown.

Receiver
General to ac-
count.

ject to the disposition of His Excellency the Governor, Lieutenant-Governor, or person administering the government of this Province, to and for the purposes of this act, by warrant under his hand and seal ; and the said receiver general is hereby required to receive and account for the same, in like manner as other public monies now by him received, are by him accounted for to His Majesty, through the commissioners of His Majesty's treasury, for the time being, as the Crown shall direct.

Governor em-
powered to ap-
point the pre-
sident of the
corporation,
and other offi-
cers, &c.

IV. And be it further enacted, &c., that it shall and may be lawful to and for the Governor, Lieutenant-Governor, or person administering the government of this Province, by an instrument or instruments under the great seal of this Province, from time to time, to nominate a president or principal of the said corporation hereby erected, and such other officers, clerks and servants, as he shall judge necessary, for the well ordering and governing of the affairs and business of the said corporation,—to fix the place, times and manner in which the said corporation shall assemble, and the number and description of members which shall be requisite for transacting the business of the said corporation, and for the execution of the trust reposed in them ; and the president and such number of members of the said corporation which shall be so fixed, being assembled at such place and times, and in such manner, as shall be also so fixed, shall have full power and authority to make, ordain and constitute such and so many bye-laws, rules, orders, constitutions and ordinances, not repugnant to the statutes, customs or laws of this Province or the express regulations of this act, as by them or the greatest part of them, then and there present, shall be judged necessary and expedient, as well for the direction, conduct and government of the said corporation of the free schools of Royal foundation of this Province, and all other institutions of Royal foundation for the advancement of learning which shall be hereafter established within this Province, and of the masters, ushers, tutors, professors and students thereof, respectively, as for the management and administration, improvement and amelioration of all estates and property, moveable and immoveable, which shall in any manner or way be hereafter paid, given, granted, purchased, appropriated, devised or bequeathed, in any manner or way for and in favour of the said schools and institutions of Royal foundation, for the purposes of education and the advancement of learning within this Province : Provided always, nevertheless, that no such law, rules, orders, constitutions or ordinances, shall have any force or effect until the same shall have been sanctioned and confirmed by the Governor, Lieutenant-Governor, or person administering the government of this Province, for the time being, under his hand and seal at arms : Provided also, that nothing hereinbefore contained shall extend, or be construed to extend to, or prejudice, directly or indirectly, the religious communities that now exist *de facto*, nor to any school or house of instruction that exists also *de facto* in this Province, nor to any corporation legally established or that shall be established by law in this Province, nor to any private school or other private establishment by individuals, for the purposes of education now made or hereafter to be made.

President and
members of the
corporation to
make rules,
orders and
statutes for the
schools.

Such rules, &c.
to have no force
until sanction-
ed by the Go-
vernor.

Rights of other
parties saved.

Governor em-
powered to
erect free
schools in the
parishes or
townships of
the Province.

V. And be it further enacted, &c., that when and so often as it shall be judged expedient by the Governor, Lieutenant-Governor, or person administering the government of this Province, to erect one or more free schools in any parish or township of this Province, it shall and may be lawful, to and for the Governor, Lieutenant-Governor or person administering the government of this Province, by an instrument under his hand and seal at

arms, to declare the same, and to nominate and appoint two or more persons residing in the county wherein such parish or township may be situated, for the purpose of erecting one or more school-houses, with convenient apartments for one or more school-masters, in such parish or township,—to remove from time to time, such persons, or either of them, and to appoint others in the place and stead of such as shall be removed or shall die, or resign their trust; and the said persons so nominated and appointed, shall be and they are hereby constituted commissioners, for the purposes aforesaid.

VI. And be it further enacted, &c., that the said commissioners, being so appointed, shall forthwith after due consideration, fix upon some convenient lot or lots of ground in such parish or township, whereon such school-house or school-houses may be erected, and shall also fix upon the dimensions of the said school-house or school-houses to be erected, which shall not, in any case, exceed eighty feet in length and forty feet in breadth, and shall contain the apartments proper and convenient for the residence of the school-master or school-masters therein: Provided always, that the situation of such lot or lots of ground and the dimensions of such school-house or school-houses, shall be reported to, and be approved by His Excellency the Governor, Lieutenant-Governor, or person administering the government of this Province, for the time being, before the same shall be finally fixed upon.

VII. And be it further enacted, &c., that when such lot or lots of ground shall be so fixed upon, with such approbation as aforesaid, the said commissioners or any two of them, in each of the said districts respectively, shall as soon as may be, contract for the absolute purchase of the said lot or lots of ground in such parish as aforesaid, for the purpose of erecting thereon such school-house or school-houses in such manner as is hereinafter directed, which lot or lots of ground, so to be purchased, shall be conveyed to the Royal Institution for the advancement of learning.

VIII. And be it further enacted, &c., that the school-houses with convenient apartments for the school-master hereinbefore mentioned, shall be erected and completed by the inhabitants of the township or parish as the case may be, in which, in manner aforesaid, it shall be found expedient to erect the same; and to this end, it shall and may be lawful, when such lot or lots of ground as aforesaid shall be fixed upon and conveyed in manner aforesaid, to and for the commissioners, so as aforesaid appointed, to issue their warrant under their signatures, appointing the church-wardens of the parish or parishes in which such school-houses are to be erected, to be syndics for the erection of the same, and requiring them or any two of them, to make an estimate of the sum to which the erection of such school-houses may amount—and also to make an act of repartition thereof, assigning what each inhabitant in the parish or parishes in which such school-houses are to be erected, in manner aforesaid, shall be held to pay and furnish; which estimate and repartition shall be made in like manner as is now provided for the erection of churches and parsonage houses, and shall, by the church wardens or any two of them, be laid before the commissioners aforesaid, who or a majority of them, are hereby authorized to homologate or reject the same, and the said repartition being homologated, shall be binding on all the parties concerned therein: And the church-wardens or any one of them, may compel each and every of the inhabitants aforesaid, to pay and furnish his or her proportion in conformity to the said repartition; and in case of refusal or neglect, it shall and may be lawful, to levy by warrant of

Commissioners to fix on lots of ground for the erection of school houses.

To be approved by the Governor.

Commissioners may contract for the purchase of the ground so approved.

School-houses to be provided by the inhabitants.

But see Tables.

Repartition to be made.

Penalty on defaulters.

- distress and sale of the goods and chattels of such defaulter, to be granted on the oath of one or more credible witness or witnesses, and issued under the hand and seal of any justice of the peace acting in the district wherein such neglect or refusal shall be made, rendering the overplus, if any there be, to the said defaulter, after deducting the costs and charges of such distress and sale : Provided always, that no prosecution shall be commenced for such refusal or neglect, until fifteen days after the repartition homologated as aforementioned, shall have been published, by one of the church-wardens aforesaid, at the church-door of the parish in which such school-houses are to be erected, on a Sunday or holy-day after the morning service : Provided also, that no school-house or school-houses shall be erected in manner aforesaid in any parish or township, unless a majority of the inhabitants of such parish or township, shall present a petition to His Excellency the Governor, Lieutenant-Governor, or person administering the government, for the time being, praying to have a school or schools established therein, or unless a certain number of the inhabitants of any parish or township shall, in like manner, present a petition, praying to have a school-house, and undertake to build the same at their own expense.
- Limitation of actions.** IX. And be it further enacted, &c., that it shall be the duty of the said commissioners, to superintend the erection of the school-houses and apartments as aforesaid, within the limits of their commissions, respectively; and when and so soon as the same shall be completed, to give information thereof to the Governor, Lieutenant-Governor, or person administering the government of this Province, for the time being.
- How school-houses may be obtained in the several parishes.** X. And be it further enacted, &c., that it shall and may be lawful, to and for the Governor, Lieutenant-Governor, or person administering the government of this Province, by an instrument under his hand and seal at arms, to nominate and appoint one or more fit and proper person or persons, to be the school-master or school-masters of every free school of Royal foundation, to be established and erected by virtue of this act,—to remove, from time to time, such school-master or school-masters, and to appoint another or others in the place and stead of such as shall be so removed, or shall die, or resign his or their trust,—and to fix and determine the salary or annual stipend to be allowed to such school-master or school-masters; and that from and after the passing of this act, no such master or masters shall teach in any free school of Royal foundation hereafter to be established, without a commission for that purpose first had and obtained, from the Governor, Lieutenant-Governor, or person administering the government of this Province, for the time being, under his hand and seal at arms.
- Commissioners to superintend the school-houses, and inform the Governor when they are completed.** XI. And be it further enacted, &c., that when any school or school-houses erected by virtue of this act, in any parish or township in this Province shall require repair, the same shall be repaired by the inhabitants of the parish or township in and for which the same shall be erected, and in the same manner and form as is herein provided for the erection of school-houses.
- Governor to nominate the school masters.** XII. And be it further enacted, &c., that the school-houses erected by virtue of this act, shall and may be appropriated to the sittings of the circuit courts, or any other of His Majesty's courts, which may be held in any parish in which such school-house is erected, and for holding the polls for the election of members to serve in the provincial parliament, when the same shall be held in any parish in which such school-house is erected.
- And appoint their salary.**
- Inhabitants to repair school-houses.**
- School-houses may be appropriated to the sitting of circuit courts, &c.**
- See Tables.*

An Act to amend certain parts of an Act passed in the forty- 4 Geo. IV.
first year of the Reign of His late Majesty George the Third, Chap. 18.
Chapter seventeenth, which directs the Circuit Courts to
be held in the School-houses erected under the said Act.

WHEREAS it is expedient to amend certain parts of an act passed, Preamble.
&c., (41 Geo. 3. cap. 17,) wherein it is enacted, that the school-
houses erected by virtue of the said act, shall and may be appropriated to
the sittings of the circuit courts, or any other of His Majesty courts, which
may be held in any parish in which such school-house is erected :—Be it
therefore enacted, &c., that when and so often as the circuit court or any
other of His Majesty's courts ordered and directed to be held in any of the
school-houses erected or to be erected under and in virtue of the aforesaid
statute, passed, &c., (41 Geo. 3. cap. 17,) shall be held in any parish in
which such school-house shall or may happen to be out of repair or otherwise
insufficient for the convenient accommodation of such court or courts as
aforesaid, it shall and may be lawful to hold the sittings thereof in the hall
or apartment of the presbytery or parsonage house, usually set apart and ap-
propriated to and for the public uses of the inhabitants of such parish res-
pectively ; and that whenever such circuit court or courts aforesaid shall or
may be held in any parish wherein no such hall or apartment may have
been set apart and appropriated as aforesaid, the said circuit court or any
other of the courts of His Majesty, shall and may be held in such dwell-
ing-house or other fit place within the limits of the said parish, as the
Governor, Lieutenant-Governor, or person administering the government of
the said Province for the time being, shall be able to procure, whereof no-
tice in writing shall be given by the prothonotary or clerk of such court, to
be publicly affixed at the door of each of the parish churches within the
limits of the county for which such circuit or other courts shall or may be
held, at least ten days before the sitting of such court or courts ; any thing
in the said act contained, or any law, usage or custom to the contrary not-
withstanding.

Circuit courts,
&c., may be
held in the hall
in the presby-
tery, where
school-houses
are out of re-
pair, and where
there are no
such halls, a
dwelling-
house may be
procured for
the purpose.

2. NORMAL SCHOOLS.

An Act to provide for the establishment of Normal Schools.

6 Will. IV.
Cap. 12.

MOST GRACIOUS SOVEREIGN,

WHEREAS in the parishes, seigniories and townships of this Province, Preamble.
in which the number of schools hath become much larger than it
formerly was, the want of able masters and teachers is deeply felt, and in
order that the liberal encouragement granted to public instruction by the
legislature may not be unavailing, it has become urgently necessary to pro-
vide for the establishment of Normal Schools from which masters and teach-
ers properly qualified, may be procured :—May it therefore please Your
Majesty, that it may be enacted, and be it enacted, &c., that in the city of
Quebec and in the city of Montreal, the bishops, vicars-generals, arch-
deacons, rectors, curates, pastors and other priests and ministers of
religion, entitled to keep registers for ascertaining the civil condition of
the inhabitants of the said cities, the superiors and directors of the colleges,
and the professors of *belles lettres*, rhetoric and natural history, in the said
ing a majority

Preamble.

See Tables.

In the cities of
Quebec and
Montreal the
bishops and
other persons
to meet after
due notice, and
at such meet-

of the persons colleges, the judges of the courts of King's bench, the members of the legislature, resident in the district, and the mayors of the said cities, shall present to appoint a committee, to have the management of the normal schools.

Proviso.

meet in each of the said cities, respectively, after public notice, to be given by the mayor immediately after the passing of this act, by advertisement inserted in both languages in two public newspapers, appointing the place, day and hour of such meeting, which shall not take place until at least fifteen days after the date of such advertisement; and at such meeting the majority of the persons present shall proceed to appoint a committee of ten members, and such committee shall have the establishment, organization and management of the normal schools, aforesaid: Provided always, that in case of the death, absence or resignation of any of the members of the said committee of management, the president thereof shall call a meeting in the manner herein above prescribed, for the purpose of proceeding to fill the places of such members.

Committees to elect certain officers.

II. And be it further enacted, &c., that the committee so chosen in each of the said cities, shall elect from among its members, a president, a vice-president, a secretary and a treasurer, and shall be called *The committee of management of the normal school for the district of*

Their duty.
See Tables.

and shall have the administration of the normal school established in each of the said cities, respectively, in the manner hereinafter provided, during five years from the date of the establishment of such school.

The committees in the districts of Quebec and Montreal to procure a place for the schools, and to engage proper teachers and professors.

III. And be it further enacted, &c., that the committee of management of the normal school in each of the districts of Quebec and Montreal, shall procure a sufficient place for keeping such school in or near the said cities, and shall engage (for a term which shall not exceed five years,) teachers and professors, who shall furnish certificates of their good and regular moral conduct, possessing the knowledge, experience and qualifications necessary for conducting institutions of this nature, and to enable them to instruct and form masters both for the primary or elementary schools in the country parts, and for the superior or model schools, already established, or to be hereafter established, in each parish, seigniory or township.

The nature of the studies in the schools.

IV. And be it further enacted, &c., that so far as it shall be practicable and consistent with the knowledge previously possessed by the pupils, the course of study in such normal schools shall extend through three years, and shall include among others, the studies hereinafter mentioned, that is to say:—French grammar and English grammar, with exercises in writing and in composition in each of the said languages; arithmetic and book-keeping; geography and the use of the globes; the elements of practical geometry; the art of drawing maps and plans; the elements of chemistry as applied to arts and trades; the principles of horticulture and agriculture; an abridged course of mechanics, natural history, ancient and modern history, moral philosophy, and the public law of the country; and lastly and more especially, theoretical and practical lessons on the best mode of conducting a school, and the best method of teaching.

Committees to make rules for the management of the schools.

V. And be it further enacted, &c., that the committees of management of the said normal schools may, respectively, make such rules and regulations for the management and discipline of such schools as they shall, after consulting the chief professor therein, deemed most suitable.

The normal schools to be

VI. And be it further enacted, &c., that the said normal schools shall be exclusively appropriated for the reception and instruction, free of expense,

of such young persons as may be willing to devote themselves to teaching either in the primary or superior schools, and also of such school-masters as may wish to complete their studies and to obtain instruction on the best method of teaching and of conducting a school: Provided always, that no person shall be admitted into any normal school, who shall not have attained the age of fourteen years, or who cannot prove his good moral character by a certificate signed by the rector of his parish, or a minister of the religion he professes, or a justice of the peace or militia officer of the place in which he resides, nor unless he can prove that he can read and write one or the other of the two languages, and is acquainted with the elements of arithmetic; and in any case where it shall be ascertained that the pupil admitted to any normal school, has not the means, and is in fact unable to provide himself with books and other articles of stationery necessary for going through the courses taught at the school, the committee of management is authorized to procure the same for him out of the funds hereinafter appropriated to defray the contingent expenses of the said schools: Provided always, that the said pupils and their guardians, or such school-master as aforesaid, shall give the said committee of management, good and sufficient security, that after the period of their tuition, he or they shall and will, either serve the public in the capacity of teacher, for the space of at least five years, or refund the expense of his or their education to the said committee of management.

appropriated for the reception, free of expense, of young persons willing to devote themselves to teaching, and school masters wishing to complete their education.

Proviso.

Proviso.

VII. And be it further enacted, &c., that each pupil who shall have gone through a course of study at the said normal schools, shall obtain a certificate signed by the president or vice-president of the committee of management of the normal school in which he shall have studied, countersigned by the secretary of the committee and by the chief professor of the normal school, attesting that such person has studied in such school for a time named in the certificate, and having undergone a sufficient examination in the several branches of education taught therein, was found able and is in fact qualified to teach such and such branches of education; and such certificate shall entitle the person receiving it to be employed, in preference to others, in the superior or in the primary schools, according to the nature of such certificate, and to receive the allowances granted by the legislature for such schools, according to the statute passed or to be passed in that behalf.

Qualifications necessary for persons to be admitted as masters in public schools.

See Tables.

VIII. And be it further enacted, &c., that so soon as the said committee of management of the said normal schools shall have been appointed and organized as hereinbefore provided, it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government of this Province, for the time being, to advance to each of the said committees of management, by warrant under his hand and seal, out of any unappropriated monies in the hands of His Majesty's receiver general, the sums hereinafter mentioned, that is to say:—firstly, a sum not exceeding four hundred pounds currency, to enable each of the said committees of management to procure professors qualified for the said normal schools, and to purchase the classical books, maps, instruments, furniture and other articles necessary for the school; and a further sum not exceeding six hundred pounds, currency, to enable each of the said committees to pay the salaries of the professors and assistant professors who shall be employed in such normal schools; and a further sum not exceeding two hundred and fifty pounds, currency, to pay the rent, and for the warming, lighting and other annual contingent expenses of each of the said schools;—the two sums last mentioned being payable yearly for five years, reckoning from the day when the said school shall go

Governor authorized to advance certain sums of money to the committees of management of the normal schools.

See Tables.

into operation ; and lastly, a further sum not exceeding one hundred and twenty pounds currency, yearly, for three years, to enable each of the said committees of management to provide board and lodging for five or more school masters who shall be desirous of completing their studies in the said normal schools, and of learning therein the best method of teaching and conducting a school, but shall be unable and totally destitute of means to support themselves during the time they may be so studying.

Committee of management annually to lay a report before the legislature.

IX. And be it further enacted, &c., that the said committee of management shall annually lay before the legislature, reports attested by the president and the secretary of the said committees of management, and by the chief professor of the said normal schools, respectively ; and such reports shall comprise a list of the names of the pupils actually taught at such school, with their age, residence, studies, progress, the date of their entry into the school, and the conditions of their admission, mentioning those whose board and lodging is paid for out of the monies appropriated for that purpose, and the amount so paid,—also the names of the pupils who have left the school, and the nature of the certificates or qualification which may have been given them ; and such reports shall also shew the names of the professors and assistant professors, what they respectively teach, and the conditions on which they are engaged, and the amount of their salaries,—the number and distribution of the classes and the method of instruction, and the rules and regulations adopted for the management and discipline of the school ; and such report shall also shew the names of the members of the committee of management, and of their officers, and shall contain an inventory of the books, maps, instruments and furniture belonging to the school, accompanied by an exact statement of the expenses of the institution,—and lastly, all such other details and remarks as the committee of management shall deem requisite to enable the legislature to form a correct opinion on the state of the institution, and with regard to the improvement and modifications of which it may be susceptible.

The Governor authorized to pay certain sums annually to certain convents, for the board, lodging, and tuition of a certain number of young females.

See Tables.

X. And be it further enacted, &c., that it shall be lawful for the person administering the government, by warrant under his hand, and out of the unappropriated monies in the hands of the receiver general, to authorize the payment of the following sums, annually, for three years, that is to say : a sum not exceeding one hundred and twenty pounds currency, to the Ursuline nuns at Quebec, for the board, lodging, and tuition of five or more young females, who shall be willing to devote themselves to teaching, and who shall not have the means of supporting themselves during the term of their studies ; a further sum not exceeding one hundred and twenty pounds currency, to the Ursuline nuns at Three-Rivers, for the same purpose ; and a further sum of one hundred and twenty pounds currency, to the Sisters of the congregation of Notre Dame at Montreal, also for the same purpose ; the said sums to be so paid on the recommendation of one of the committees of management of the normal schools hereby established ; And the boarders who shall leave any of the said communities, after obtaining a certificate from the superior, attesting that they have undergone an examination in such and such branches of education, and are qualified to teach the same, shall have the same rights and privileges as the pupils leaving either of the normal schools aforesaid.

Sections 10 & 11, are the usual accounting clauses, and are precisely the same (among others), as sect. 22 and 23 of 6 Will. IV. cap. 24, page 248.

4. COLLEGES OF CHAMBLY, ST. ANNE'S, & ST. HYACINTHE.

An Act to incorporate the College of Chambly.

6 Will IV.
Cap. 51.

Preamble.

WHEREAS it hath been represented to the legislature of this Province, by the Reverend Pierre Marie Mignault, priest, founder and superior of the college of Chambly, and rector of the parish of Saint Joseph of Chambly, in the district of Montreal, that for the advancement of education in this Province, he is desirous, in order to ensure the stability and permanency of the said college, that the members composing it should be incorporated by law, and the property belonging to it should be held in mortmain : And whereas it would tend greatly to the advancement of education in this Province that the said college should be incorporated, and the said property held in mortmain, as prayed for :—Be it therefore enacted, &c., that there shall be and there is hereby constituted and established at the said place of Saint Joseph of Chambly aforesaid, and in the college aforesaid, a body politic and corporate under the name of *The corporation of the college of Chambly*, which corporation shall consist of—Firstly—That one of the vicars-general, of the Roman catholic bishop within whose diocese the said parish of Chambly is situate, who shall be designated for that purpose by the said bishop or his successors in office. Secondly—The said Reverend Pierre Marie Mignault, priest, who shall, as founder of the said college, be a member of the said corporation for the term of his natural life, and shall be entitled (if by reason of age or infirmity, he should become incapable of performing his functions as rector of the said parish of Chambly,) to retire to and into the said college, and to be then and there supported and maintained by and at the expense of the said corporation. Thirdly—The principal or director of the said college, appointed by the Roman catholic bishop whose diocese shall comprise the parish of Chambly as aforesaid, and his successors in office. Fourthly—The Roman catholic rectors, pastors and missionaries who shall be the successors of the said Reverend Pierre Marie Mignault, the present rector of the said parish of Saint Joseph of Chambly. Fifthly—(And in addition to the principal or director aforesaid,) that one of the ecclesiastics, employed in the said college, who shall be for that purpose designated by the Roman catholic bishop aforesaid, or his successors in office. Sixthly—The acting and accountable churchwarden of the *Œuvre* and *Fabrique* of the said parish of Saint Joseph of Chambly, and his successors in office ;—which said persons, with the exception of the said Reverend Pierre Marie Mignault, priest, shall be members of the said corporation, for such time only as they shall hold, have and exercise the offices, situations, qualities, titles and capacities, aforesaid, and shall be succeeded for ever as members of the said corporation, by those persons who shall by law or under the authority of this act, succeed them in such offices, situations, qualities, titles and capacities aforesaid ; and the said corporation so composed may, henceforth and for ever, have a common seal, with power to change, alter, break, and renew the same when and so often as they shall deem it meet. And the said corporation may by the same name sued and be sued, plead and be impleaded, prosecute and be prosecuted, in all courts of law now established or hereafter to be established in this Province, and shall have full power to make and establish such and so many rules, orders, and regulations (not being contrary to the laws of the country,) as they shall deem useful and necessary, as well concerning the system of education in, as for the conduct and government of the said

The college at present established at Saint Joseph de Chambly, created a body corporate and politic, and the property to be held in mortmain.

What persons are to compose the said corporation.

Corporate powers.

Proviso.

college, and of the corporation thereof, and the superintendence, advantage and improvement of all the property, moveable or immovable, belonging to, or which shall hereafter belong to the said corporation, and shall have power to take under any legal title whatsoever, and to hold for the said college, without any further authorization or letters of mortmain, all lands and property, moveable or immovable, which may hereafter be sold, ceded, exchanged, given, bequeathed, or granted to the said corporation, or to sell or alienate the same, if need should be : Provided always, that the net rents, issues and profits arising from the immovable property and territorial acquisitions of the said corporation, shall not at any time exceed the sum of three thousand pounds, current money of this Province, annually : And the said corporation shall further have the right of appointing an attorney or attorneys for the management of their affairs, and shall generally enjoy all the rights and privileges enjoyed by other bodies politic and corporations recognized by the legislature.

All property of the corporation to be exclusively applied to education.

II. Provided always, and be it further enacted, &c., that all property which shall at any time belong to the said corporation, as well as the revenues thereof, shall at all times be exclusively applied and appropriated to the advancement of education, in and by means of the said college, and to no other object, institution, or establishment whatsoever.

III. *Omitted.—This act to be a public act.*

IV. *Omitted.—Rights of the Crown and other parties saved.*

4 Will. IV.
Cap. 35.

An Act to incorporate the College of Ste. Anne de la Pocatière, in the District of Quebec.

3 Will IV.
Cap. 36.

An Act to incorporate the Seminary of St. Hyacinthe of Yamaska, in the District of Montreal.

Except as to the persons and functionaries of whom the corporations are to consist, these two acts are the same with that incorporating the college of Chambly, and with the act of Canada 4 & 5 Vict. cap. 68, incorporating that of L'Assomption.

The act (2 Will. IV. cap. 41,) appropriating the revenues of the Jesuits' estates to the purposes of education is inserted in class G, page 447.

CLASS K.

Relating to Miscellaneous Subjects, arranged in their Alphabetical Order.

1. Adultery (actions for *crim. con.*)
2. Agriculture, remedy of abuses prejudicial to.
3. Agricultural societies.
4. Bread, assize of.
5. Chasseur's museum.
6. Churches, good order in.
7. Clerks of the peace, unclaimed goods in their hands.
8. Emigrant hospital.
9. Fees of those employed by justices of the peace.
10. Ferries, ferrymen.
11. Fever hospital, Quebec.
12. Fire, accidents by.

13. Fisheries, in Cornwallis and Northumberland.
14. Fortifications of Quebec, to preserve the.
15. Foundlings, guardians to.
16. Grass on beaches, preservation of.
17. Gunpowder, storing of.
18. Indemnity for acts done in suppressing the rebellion.
19. Indians.
20. Industry, house of, at Montreal.
21. Laws, when to come into force.
 - publication of.
 - distribution of.
22. Maitres de postes.
23. Majority, age of.
24. Marriages, opposition to.
 - in Gaspé, confirmed.
 - in Saint Francis district, confirmed.
 - certain, confirmed.
25. Masters, servants and apprentices, &c., in the country parts.
 - in towns.
26. Medicine, practice of.
27. Militia.
28. Militiamen, pensions to.
29. Mutual insurance companies.
30. Parishes, churches, &c.
31. Penalties, actions for, limitation of.
32. Pension to Mrs. Panet.
 - to Messrs. Monk and Ogden.
 - to Mrs. Caron.
 - to Mr. Bedard.
 - to Mrs. Rolette.
33. Quakers, indulgences to.
34. Records, French, safe keeping of certain.
35. Registers of Marriages, &c., in the churches of England, Rome and Scotland.
 - in the church of Scotland.
 - by Baptists, at Montreal.
 - Congregational societies.
 - Free-will Baptists.
 - in Gaspé.
 - by Jews.
 - Methodist Protestants.
 - Methodist New Connexion.
 - Presbyterians at Hull.
 - Presbyterians at Montreal.
 - Protestant Christians.
 - Secession church of Scotland.
 - Universalist society.
 - Wesleyan Methodists.
36. Religious congregations, lands held by.
37. Seminary of Saint Sulpice.
38. Surveyors, (land.)
39. Taverns, sale of spirituous liquors.
40. Troops, quartering of.
41. Useful arts, (patents for inventions.)
42. Voyageurs.
43. Wharfingers, unclaimed goods in their hands.
44. Wills.
45. Wolves, destruction of.

1. ADULTERY, ACTIONS FOR CRIM. CON.

A Declaratory Act respecting Actions for Criminal Conversation. 40 Geo. III.
 WHEREAS doubts have been entertained, whether by the laws which Cap. 7.
 prevail in this Province, an action can be maintained for a pecuni- Preamble.

any compensation in damages for criminal conversation with the plaintiff's wife, unless a criminal process shall have been instituted, and a verdict convicting the party of adultery, shall have been obtained, which is manifestly inconvenient :—For removing such doubts, be it enacted and declared, &c., that from and after the passing of this act, it shall be no valid exception or plea in bar, to an action for a pecuniary compensation in damages for criminal conversation, that the plaintiff hath not instituted a criminal process and obtained a verdict, convicting the defendant of adultery ; any law, custom or usage to the contrary notwithstanding.

A criminal verdict not necessary to obtain compensation in damages for adultery.

2. AGRICULTURE, REMEDY OF ABUSES PREJUDICIAL TO.

30 Geo. III.
Cap. 4.

An Act or Ordinance for preventing Cattle from going at large, or *l'Abandon des Animaux*. (Suspended until 1st May, 1845.)

Preamble.

WHEREAS it has been represented by many respectable inhabitants of the districts of Quebec and Montreal, that the usage or custom of allowing cattle to go at large in the fall and spring of the year, known under the name of *l'abandon des animaux*, is hurtful to improvement and agriculture :—Be it therefore enacted, &c., that from and after the first day of September next, the aforesaid custom known by the name of the *abandon*, shall be abolished ; that the fences shall be kept up and maintained at all seasons of the year ; nor shall it be lawful for any person, at any time, to break down the fences that separate his and his neighbour's lands, or the lands of any other person, or let his horses, horned cattle, sheep, goats or hogs, trespass on individuals, or stray in the public high roads, any usage to the contrary notwithstanding : And if any neat cattle, goat or sheep be taken in trespass, or straying in the public highway, the proprietor thereof, over and above the damage which may be recovered in due course of law, shall incur a fine of one shilling for each neat cattle or goat, and three pence for each sheep : And any cattle taken in trespass may be detained until reclaimed by the owner thereof ; and the reasonable charges of maintaining them shall be added to the damage done, together with all costs of suit ; and execution shall issue against the defendant's goods and chattels for the amount thereof : Provided always, that the person detaining any such cattle shall have caused the detention of them to be cried or proclaimed at the church door of the parish where taken, on the three subsequent Sundays after their detention, immediately after divine service, if the owner does not claim them at the first or second crying.

The custom of *Abandon*, henceforth abolished.

Certain regulations.

Proviso.

Penalty for breach of the regulations.

Where recoverable.

II. And be it enacted, &c., that any person or persons who shall break any fence, or tread down any growing corn, or hemp or flax, or pulse or growing vegetable for the sustenance of man, or enter upon any hay-field, while the grass for hay is growing thereon, shall incur and pay a fine of two shillings and sixpence, over and above the damage which may be recovered by the proprietor thereof for every such trespass in due course of law.

III. And be it enacted, &c., that every injury and damage which shall be sustained by every such straying or trespass before mentioned may be sued and recovered in the court of common pleas of the district, or other court for the trial of small causes in the circle where the same shall be incurred or sustained, and may be ascertained upon the oath of one or more credible witnesses not interested in the damage sustained ; and the fines in-

posed by this act may likewise be sued in either of the aforementioned courts; and one-half of every fine adjudged under the same shall belong to His Majesty, and the other half to the informer, upon whose oath without other proof, being a credible witness, the same may be sued and adjudged; any law, regulation, usage or custom to the contrary notwithstanding.

An Act to repeal a certain Act therein mentioned, and more effectually to remedy divers abuses prejudicial to Agriculture. 6 Will. IV. Cap. 56.
(Temporary.)

WHEREAS it is expedient to repeal a certain act passed in the third year of the reign of His present Majesty, intituled, *An Act to repeal a certain act therein mentioned, and to provide more effectually for the remedy of divers abuses prejudicial to agriculture*, and to provide more effectually for the prevention of certain trespasses, abuses and evil practices which prevail in this province, and retard the progress of agriculture therein: —Be it therefore enacted, &c., that the said act, &c., (3 Will. 4. cap. 51,) shall be and is hereby repealed, and that the said act thereby repealed, and passed, &c., (10 & 11 Geo. 4. cap. 1.) shall nevertheless be and remain repealed as if this act had never been passed, this act being substituted for all other acts heretofore passed on the subject to which it relates.

Preamble.
See tables for the duration of this act.

3 Will. 4. cap. 31, and 10 & 11 Geo. 4. cap. 1, repealed.

II. And be it further enacted, &c., that from and after the passing of this act, no person shall enter into or pass through any field, whether it be sown or unsown, nor into nor through any enclosed garden, coppice or other enclosed property whatsoever, without the permission of the proprietor or of some person duly authorized by him to grant such permission, under a penalty of not less than five shillings, nor more than thirty shillings, currency, for every such offence, and over and above the amount of all damages occasioned thereby, and which may be recovered before one justice of the peace; and such penalty shall be recoverable before any one justice of the peace, who shall decide the matter in a summary way, either on his personal knowledge of the fact, or on the confession of the party complained against, or on the oath of one credible witness: Provided always, that it shall be lawful for any landholder, or for his representative or servant, to arrest any person taken in the fact of contravening this section, and to carry him or cause him to be carried forthwith before the nearest justice of the peace not interested, in order that such justice of the peace may decide summarily on the complaint.

Penalty on persons entering into any closed field or garden &c. without the permission of the proprietor.

Proviso.

III. And be it further enacted, &c., that any person who shall pull down, cut, break, remove or injure any fence or part of any fence, or cut or destroy any hedge which may have been planted as a line fence, or shall cut, bark, fell or remove any tree, shrub or plant, or fell, cut or remove any tree or any part of a tree, in the wood of any other person, for the purpose of making shingles, or for any other purpose, or shall therein burn any wood to make potash or sugar, without leave from the proprietor or his representative,—every such person shall, for every such offence committed in the day time, incur a penalty which shall not be less than five shillings, not more than thirty shillings, currency, and shall be double the said sums if the offence be committed in the night time, over and above all damages which may be recoverable before one justice of the peace, not exceeding the amount of sixty shillings; and that any person who shall have thrown down or carried away any part of any fence, or shall be found on any land, highway or bye-road, with any portion of the materials of any fence in his

Penalty for pulling down any fence or cutting down any tree, &c. without the permission of the proprietor.

See Tables.

possession, may be detained by any landholder of the vicinage or any person in the service of such landholder, and carried before the nearest justice of the peace, who may cause him to be detained until more ample inquiry can be made, for any time not exceeding twenty-four hours.

Any justice of the peace authorized to issue his warrant against trespassers.

See Tables.

Proviso.

IV. And be it further enacted, &c., that any justice of the peace, upon complaint on oath before him, shall issue his warrant directed to a constable or peace officer, for the apprehension of any person charged with any offence against any of the provisions of this act, and shall, without unnecessary delay, hear and determine upon the complaint, on the evidence of one credible witness other than the prosecutor; and the penalties hereby imposed or authorized to be imposed, shall be levied forthwith by warrant of distress and sale of the goods and chattels of the offender, and if sufficient goods and chattels cannot be found, or if the said penalties shall remain unpaid for the space of eight days after such conviction, such justice of the peace shall commit the offender to the common gaol, until such penalty with the costs of prosecution shall be paid: Provided always, that no person shall remain so committed for a longer time, upon any one conviction for the cause aforesaid, than eight days.

Certain fees allowed to the clerk and to the constable.

The fees.

See Tables.

V. And whereas it is expedient to ascertain the several fees to be paid to the clerk of such justice of the peace, for such warrant, and to the constable or peace officer executing the same:—Be it therefore enacted, &c., that there shall be allowed to such clerk, or person acting as such, for every warrant for such apprehension, one shilling and six pence, currency, and to the constable, bailiff or peace officer for the execution thereof, one shilling and three pence, currency, and an additional sum of one shilling, currency, for every league travelled by him to execute the same, the distance travelled in returning not being reckoned.

Case where offender is an alien or squatter, &c. provided for.

See Tables.

VI. And be it further enacted, &c., that whenever it shall appear to such justice of the peace, by the oath of the prosecutor, or that of one witness, that such offender is a foreigner, or is a squatter, or that he has no real property or other means to secure the payment of such penalty and costs, such justice of the peace shall commit him to the common gaol for a time not exceeding thirty nor less than eight days.

In case of damages by the trespassing of cattle, &c. any person may lay his complaint before a justice of the peace.

Proviso.

VII. And be it further enacted, &c., that when any person shall have sustained damage by the trespassing of cattle, poultry, or other domestic animal, he may lay his complaint before one of the nearest justices of the peace, who by summons under his hand and seal in the form prescribed in the schedule (A.) hereunto annexed, directed to any bailiff or peace officer, shall require the person against whom such summons shall be demanded, to appear before him; and such justice having heard the parties, shall refer the matter to two arbitrators, of whom each party shall name one, and who in case of difference of opinion shall name a third, and such arbitrators shall take cognizance of the damage sustained, and report the same in writing to such justice of the peace, who shall thereupon allow the prosecutor the amount thereof, with the costs and charges of the view and report, and of prosecution; and in case the defendant shall refuse or neglect to pay the same within fifteen days, such justice of the peace shall cause the same to be levied by warrant under his hand and seal, observing the usual formalities: Provided always, that the damage had not been occasioned by the bad state of the prosecutor's fence, nor by the want of one, and do not in the whole amount exceed the sum of four pounds, three shillings and four

peace, currency : Provided further, that if the defendant make default or refuse to name his arbitrator, or if the arbitrators named by the parties shall not agree in naming a third, then the justice of the peace shall appoint such arbitrator or third arbitrator ; and the said arbitrators, before proceeding, shall make oath before a justice of the peace, well and faithfully to examine the matter and make a faithful report to the best of their skill and understanding, and without any partiality or favour.

VIII. And be it further enacted, &c., that every such justice of the peace may, on the application of either party, issue subpoenas to compel the attendance of witnesses before him or before the arbitrators, and may swear them in the usual manner, to give true evidence, and may enforce obedience to every such subpoena, and punish or cause to be punished any disobedience thereto, by the usual course of law.

Justice of the peace may issue subpoenas, on the application of either party.

IX. And be it further enacted, &c., that registers shall be kept by such justice of the peace of all proceedings hereby authorized respecting damages to be sued for by virtue of this act, to the end that all persons interested may obtain copies on payment of six pence for every hundred words : Provided always, that every justice of the peace who shall neglect to keep such register, shall incur a penalty of not less than ten shillings, nor more than twenty shillings, currency, for every case in which the proceedings shall not be so enregistered.

Registers are to be kept.

Proviso.

X. And be it further enacted, &c., that it shall not be lawful for any person whomsoever, at any season of the year, to allow his horses, mules, or cattle to stray upon any land which does not belong to him, without the permission of the owner thereof or of his representative, or upon any beach, highway, or public place ; and whenever any horse, neat cattle, sheep, goat, or hog shall be found straying in any such place, the owner of such animal shall, (over and above the damages which he may be condemned to pay in the manner hereinafter prescribed,) incur the following penalties, that is to say :—for each mare or gelding, one shilling and three pence, currency ; for each ox, cow, or calf, one shilling, currency ; for each sheep or goat, three pence, currency ; for each hog, two shillings and six pence, currency ; for each bull or boar, five shillings, currency ; for each ram, five shillings, currency, between the first of May and the first of December,—and two shillings and six pence, currency, between the first of December and the first of June ; for each goose, duck, turkey, or head of other poultry of any kind, three pence, currency ; and double the said sums for the second time that such animals shall respectively be seen or found straying on any lands or fields, without the permission of the proprietor thereof or of his representative, or on any highway, beach or public place : Provided always, that the provisions of this section may be altered, modified or restricted with regard to their effect, in certain places, by any act which may be passed during the present session of the provincial parliament.

Horses, &c. not allowed to stray on any land without the permission of the owner.

See Tables.

Penalty.

Proviso.

XI. And whereas it is expedient to give proprietors or occupiers of lands, who take animals straying on their lands or in their fields, the right of detaining and keeping them until the penalty by this act attached to the offence committed, shall have been paid, without prejudice to the damages such proprietor or occupier of land may recover against the owner of such animals :—Be it therefore enacted, &c., that any proprietor or occupier of land, or his servants or representatives, may seize, take and detain any animal which he or they shall find straying on his land, or in his fields

Landholders may secure cattle trespassing on their lands until the penalty is paid.

See Tables.

	without his permission, and may detain the same until the owner thereof shall have paid the penalty hereby attached to the offence committed : and that when any animal shall be seen straying on any beach or public place, it shall be lawful for the road surveyor, or any overseer under him, or for any freeholder whomsoever of the parish, seigniory, or township, to take and detain such animal until the proprietor thereof shall have paid the fine hereby attached to the offence committed : Provided always, that the person who shall have so taken any animal, shall give notice thereof as early as possible to the owner, if known to him ; and if the owner of such animal shall not, within twenty-four hours, come forward and claim the same, and pay to the person so seizing or detaining them, the penalty incurred, with the cost of keeping such animal, or if the person detaining it shall not know the owner thereof, he shall cause public notice to be given, that such animal has been so taken and detained, with a description thereof, at the door of the church of the parish, on three consecutive Sundays, immediately after divine service in the forenoon, and in the same manner on the third Sunday at the door of the churches of the neighbouring parishes, if before that time the owner shall not claim the said animal, and pay the penalty and the costs of keeping the animal,—or if there should be no church in the place, he shall give such other public notice as may be considered sufficient, according to the custom of the parish, seigniory, township, or settlement in which such animal shall be so detained : Provided always, that when notice shall have been given in the manner aforesaid, on three consecutive Sundays, of the seizure and detention of any horse, ox or cow, or any other animal whatever, then, if such animal is not claimed, and the penalty and costs paid as aforesaid, it shall be lawful for the person who shall have such animal in his possession, to cause the same to be sold on the Sunday next after the last notice shall have been given, by public auction, at the church door, immediately after divine service in the forenoon,—or if there be no church or other place of public worship in the locality, then at the most public and frequented place as aforesaid, or on the Monday next after such notice, at eleven o'clock in the forenoon : Provided he shall have given at the least two days notice of such sale to the road surveyor, who shall be bound to attend at such sale, or in case of his absence through sickness or otherwise, shall direct one of the overseers under him to act for him ;—And out of the proceeds of the sale, which shall be paid to the road surveyor or the person acting for him, by the purchaser, the person having detained the animal shall be entitled to receive from the road surveyor the penalty incurred, and the reasonable costs of keeping the animal while detained, (which shall be estimated by such road surveyor and one of the overseers under him, who shall not be related to the detainer within the degree prohibited by the law, that is to say,—the third degree,) with all damages sustained by such detainer ; and the balance shall remain in the hands of the road surveyor, who shall pay it over to the owner of the animal so soon as he shall be known ; or if such owner shall not become known to him within a year, it shall be lawful for the road surveyor to cause such balance to be applied to the improvement of the bridges and highways ; and such surveyor or overseer of roads shall account to the nearest justice of the peace for the due application of the proceeds of the sale of any such animal or animals, within fifteen days after the sale, under a penalty of ten shillings, currency.
Proviso.	
Notice to be given to the owner, &c.	
Proviso : after notice the animal may be sold.	
Proviso.	
How the proceeds of the sale shall be applied.	
And accounted for.	
Road surveyor may refuse	XII. And be it further enacted, &c., that the road surveyor, or his representative, shall have the right of refusing all biddings at the sale of any

such animal, from any person unknown, or a stranger in the parish, or known to be insolvent, until such person shall have given security to the satisfaction of such road surveyor, or his representative; and the person becoming surety in such case shall be responsible for the price in the same manner as if he were the purchaser.

XIII. Provided always, and be it further enacted, &c., that if such price be not paid, the road surveyor or his representative may, eight days after the adjudication, bring complaint thereof before any justice of the peace of the parish, seignior, or township, who is hereby authorized and directed, on the oath of one credible witness, (other than the road surveyor or his representative) to cause the same to be levied immediately by warrant under his hand and seal, by seizure and sale of the goods and chattels of the purchaser or of his surety.

If price is not paid, the road surveyor may cause the same to be levied, by distress.

XIV. And be it further enacted, &c., that any proprietor or occupier of land, who shall receive cattle to pasture on his lands or grounds, or shall permit cattle belonging to others to stray or pasture on his lands or grounds, shall be responsible for such cattle as if he were the owner thereof, without it being necessary that the name of the owner should be ascertained: Provided always, that the complainant may, in any case, cause the summons or complaint to be served on any reasonable person in any house built on the land whereon the animals committing the damage are at pasture, and that such service shall be sufficient, even if the owner or occupant of the land should not have his domicile there, or should be absent.

Any party receiving cattle to pasture on his lands or permitting cattle belonging to others to stray on his lands, to be responsible for such cattle. *Provido.*

XV. And be it further enacted, &c., that it shall be lawful for any justice of the peace,—on complaint to him made, that any person keeps on the land belonging to such person, a vicious horse or other animal, being the property of such person, (in which complaint the said horse or other animal shall be as exactly described as may be,) and that the said horse or other animal has broken down or overleapt any fence in good repair, or has attacked and pursued any person, or done him or her any mischief, or has gored any other animal on any land, or on the highway, or on the beaches or other public ground, or has done any other harm to such animal,—after having heard such complaint in a summary manner, to order the person against whom such complaint shall have been made, to pay the costs which may have been incurred on such complaint according to the provisions of this act, and that the horse or other animal concerning which such complaint shall have been made, be clogged or fettered so as to prevent his doing any further mischief, under a penalty of two shillings and six pence, currency, to be paid by the owner or person in possession thereof, for every day during which such horse or other animal, concerning which such complaint shall have been made, shall thereafter be allowed to remain unfettered and at large.

Persons keeping a vicious horse or other animal doing damage to be subject to a penalty.

Animal to be fettered.

XVI. And be it further enacted, &c., that every person who shall own or keep a stallion of twenty months old or upwards, shall keep such stallion in a stable or other building, and shall not allow him to be at large on the highway or in any field, other than a field surrounded with a good and sufficient fence, at least five feet high, under a penalty not exceeding ten shillings, currency, nor less than five shillings, currency, for each offence.

Stallions to be kept in a stable and not allowed to go at large. *Penalty.*

XVII. And be it further enacted, &c., that it shall be the duty of every justice of the peace,—on complaint to him made, that any dog belonging to or kept by, or being on the land, or near the house of any person, has bitten

How persons bitten by dogs are to proceed.

any person, horse, cattle, or sheep, or is supposed to be rabid, or has pursued any person or ridden horse, or any horse harnessed to any carriage on the highway,—after having heard such complaint in a summary manner, to condemn the person against whom such complaint shall have been made, to pay the costs incurred on such complaint, according to the provisions of this act, and to order by a writing under his hand, the owner or keeper of such dog, to keep or cause the same to be kept shut up for forty days, under the penalty, to be paid by such owner or keeper of such dog, not exceeding two shillings, currency, for each day that such dog shall be suffered to be at large before the expiration of the said forty days: **Provided** always, that in all cases wherein it shall be proved before such justice of the peace, by one or more witnesses worthy of credit, that the dog concerning which such complaint shall have been made, is very mischievous both with regard to travellers and ridden or harnessed horses, and is in the habit of pursuing them, and of startling or biting them, then and in such case, such justice of the peace may in the manner herein set forth, order the owner or keeper of such dog, to kill it or cause it to be killed, and condemn such owner or keeper thereof, to pay in addition to the costs above mentioned, a penalty of five shillings, currency, for every day such dog shall be allowed to live after the said order.

Proviso.

XVIII. And whereas it frequently happens that great mischief is done in the country parishes by dogs which chase and strangle sheep; and whereas it is sometimes very difficult to prove that the mischief has been occasioned by such dogs:—Be it therefore further enacted, &c., that it shall be lawful for any person to kill any dog which shall be seen at large in any field being the property of such person or his employer, unaccompanied by the master thereof, or by any person belonging to his family, or in his employ, and chasing and annoying any sheep, being the property of such person or of his employer, or to complain thereof to any justice of the peace, who shall, on such complaint; summon the owner of the dog to appear before him, and shall order him to kill such dog, and shall condemn such owner to pay the costs of such complaint; and such owner shall incur a fine of five shillings, currency, for every day during which such dog shall be suffered to live after such order.

How to proceed against persons having dogs that pursue cattle.

Penalty.

XIX. And be it further enacted, &c., that every person who shall allow any hog or pig to be at large without ringing the same, shall incur a penalty not exceeding ten shillings, nor less than five shillings currency; one moiety whereof shall go to the informer, and the other moiety to His Majesty.

Penalty for keeping hogs without ringing them.

Pounds may be established, and how.

But see Tables.

XX. And whereas the establishment of pounds for the impounding of horses, horned cattle, sheep, goats and hogs which may be found astray, and impounded by private persons or by the public officers hereinbefore mentioned, would much facilitate the safe-keeping thereof in the cities, towns, villages, country parishes and townships of this Province:—Be it therefore enacted, &c., that it shall be lawful for the justices of the peace, in any of their weekly sittings in either of the cities of Quebec or Montreal, to authorize the erection or establishment of a pound, in any fit and proper place, in or near either of the said cities, for the shutting up and impounding therein of all the horses, horned cattle, sheep, goats and hogs, found straying on or damaging the property of any person, or straying on the beaches, highways or public grounds, and to place such public pounds under the charge and management of any fit person, who shall be responsible for his conduct touching the care and management of the said pounds, to the justices of the

peace in their weekly sessions, and shall be liable to be dismissed by them, and to have his place filled by another person from time to time, whenever it may become necessary.

XXIII. And be it further enacted, &c., that when and so soon as any such pound shall have been erected and established as aforesaid, according to the provisions of this act, all horses, horned cattle, sheep, goats or hogs, found straying on the land of any person or on the beach, highway or public ground within the place for which such pound shall have been erected and established, shall be, within twenty-four hours, taken to the said pound, by or at the expense of the person who shall have so found them, under a penalty of five shillings, currency, for every offence, and shall be there impounded, and shall so remain until they shall be reclaimed by the owner thereof, and until the fine incurred and the reasonable expense of feeding the said horses, horned cattle, sheep, goats or hogs, during the time they shall have remained impounded, shall have been paid to the pound-keeper; and one-half of the said penalty, and the whole of the sum paid for such feeding as aforesaid, shall go to the keeper of the pound, as an indemnification for his expenses in erecting the said pound, and the other half of the said fines shall belong to the person or persons who shall have impounded the said horses or other cattle as aforesaid; any law to the contrary notwithstanding: *When a pound is established, animals may be impounded in certain cases.* Provided always, *See Tables.* that in case any difficulty shall arise respecting the amount of the expenses incurred for the feeding of such horses or other animals so impounded, the said amount shall be ascertained by two arbitrators, one of whom shall be chosen by the keeper of the said pound, and the other by the owner of the horses or other animals so impounded, which arbitrators shall, in case of difference of opinion, appoint a third, whose decision shall be final. *Proviso.*

XXIV. And be it further enacted, &c., that it shall be the duty of every proprietor of a pound, when the fine and the expenses incurred as above for the impounding of any horse or horned cattle, or other beast whatsoever, shall be tendered to him, to deliver the animal so impounded to the owner thereof or to any other person duly authorized on his part, under pain of incurring a penalty not exceeding ten shillings, currency, for refusal, and of five shillings, currency, a day, for every day he shall afterwards unjustly detain any such horse, horned cattle, sheep, goat or hog. *Expenses of impounding having been paid, the animals to be released.*

XXV. Provided always, and be it further enacted, &c., that it shall be the duty of every keeper of a pound in which any horse, horned cattle, sheep, goat or hog, shall have been impounded, to cause it to be cried in the manner hereby provided, at the door of the church, of the place where it shall have been taken; or if there shall be in such place no church or building for public worship, then at the most public and frequented place as aforesaid. *Animals impounded to be cried.*

XXVI. Provided always, and be it further enacted, &c., that nothing contained in this act shall prevent any person from recovering in due course of law, from the owner of the horses, horned cattle, sheep, goats or hogs, geese, ducks, turkeys or other fowl whatsoever, so allowed to go at large, the amount of the damage he shall prove that he has sustained therefrom. *Persons allowed to go at large, to be subject to damages.*

XXX. And be it further enacted, &c., that every person who shall be chosen and elected inspector, in the manner hereinbefore provided, who shall refuse or neglect to enter forthwith on the execution of the functions of his said office, according to the provisions of this act, after such election shall have been made known to him by notice in writing duly left at his domicile, *Penalty on inspectors refusing to do their duty.* *See Tables.*

by or under the directions of the person who shall have presided at such meeting as aforesaid, (which notice such person shall be bound to give within seven days after such election,) shall incur a penalty of thirty shillings, currency.

Penalty on inspectors for neglect of duty.

XXXII. And be it further enacted, &c., that every inspector of fences and ditches, shall for every neglect or refusal to perform any of the duties with which he is hereby charged, when thereunto required, incur a penalty of ten shillings, currency, to be sued for and recovered in the manner herein provided.

Duty of inspectors.

XXXIII. And be it further enacted, &c., that it shall be the duty of every inspector of fences and ditches, when and so often as he shall be thereunto required by any person being proprietor or occupant of more than one-fourth of a superficial arpent of land, and residing within his division, to visit and examine the line fences, separating the lands belonging to or occupied by different persons, (giving previous notice of the day and hour when such examination will take place, either personally or by notice left at the residence of the person against whom complaint shall have been made,) and the said inspector of fences and ditches shall determine whether the fence belonging to the person against whom such complaint shall have been made, be sufficient; and if the fence belonging to the said party be declared insufficient, such party shall be ordered to repair the same within a certain time, to be fixed by the said inspector of fences and ditches, which time shall not exceed four days in any case wherein it shall be possible to perform the work required within that time,—and in all other cases such inspector shall allow such further delay as he shall think necessary; and if the person whose fence shall have been so declared insufficient, shall fail to conform to the order made concerning such fence, such person shall incur a penalty of two shillings and six pence, currency, for each and every day such fence shall

Proviso: what shall be a sufficient fence.

remain unrepaired after the expiration of the time so fixed: Provided always, that no fence shall be considered as insufficient, which shall not be inferior to the fence erected on the same line or boundary, and in a similar position, in the same field or enclosure, by the party complaining: And provided also, that it shall be the duty of every such inspector of fences and ditches, after the expiration of four days, or of the time which he shall have fixed for the making or repairing of any fence as aforesaid, to cause it to be erected or repaired at the expense of the person who, having been adjudged to erect or repair the same, shall have neglected so to do, and to recover the expense thereof by suit before a justice of the peace, with costs, including a just allowance for the time he shall be employed in the execution of his duty:

Proviso; as to land abandoned, &c.

Provided always, that if the party in default is absent from the Province, deceased or unknown, or has abandoned his land, or if the land of such party is seized by the sheriff, then, the inspector after having caused to be made or repaired the fences or drains of the party who shall have been condemned to make or repair the same, shall have for the recovery of the expenses incurred in so doing, a privileged mortgage on such land from the day on which such work shall have been completed,—and such land may be

See Tables.

seized and sold under a judgment of any competent court, on a petition to such court, setting forth the facts, and on proof of the allegations of such petition, to the satisfaction of such court,—without its being necessary that the name of the owner of such land should be ascertained in the proceedings had before such court in conformity to the foregoing enactments: Provided always, that if the owner of such land shall at any time before the sale thereof

Proviso: if the expenses be paid.

under such judgment as aforesaid, pay to the said inspector of fences, or if there shall then be no such officer, to the surveyor of roads, or to the overseer of roads for the division in which such lands shall be situate, the amount of the expenses so incurred, with all such costs and expenses as shall or may have been incurred in suing for such judgment and causing such lands to be seized, then and in such case such mortgage shall be deemed and taken to be satisfied and discharged.

XXXIV. And be it further enacted, &c., that whenever the matter in question shall relate to the erection of a fence where there shall have been none before, or where, although there has been a fence, the old fence shall be in such a state that the labour of repairing it shall be equal to that of making a new one, such inspector shall not condemn the party against whom complaint shall have been made, unless the party complaining shall prove that the party complained against was called upon to erect the said fence, before the tenth day of January preceding the time at which such complaint shall be made.

How inspectors shall proceed when fences are to be made.

XXXV. And be it further enacted, &c., that it shall be the duty of every such inspector, whenever he shall be thereunto required by one or more proprietors or occupants of land, to proceed to inspect all ditches opened or to be opened on any line separating the lands of one person from those of another, and all other ditches, drains or water-courses commonly known as work to be jointly performed (*travaux mitoyens*) or therewith connected, and to order such work as they shall deem necessary, and shall determine the parties by whom the same shall be performed and kept in repair, as well as the manner in which the same shall be done, and the time within which it shall be completed, as he shall deem it just and conformable to the custom and laws of this Province in that behalf; and every proprietor or occupant of land as aforesaid, who shall refuse or neglect to make, repair, take care of and keep in order any line ditch or other ditch as aforesaid, according to the order made by such inspector, within four days, or within the time fixed by such inspector, (when he shall have thought fit to grant a longer delay,) after a written or verbal notice to such person given, shall incur a penalty of two shillings and six pence, currency, for every day that such ditch shall remain unmade or unrepaired in the manner aforesaid.

Inspectors to examine ditches, water-courses, &c., which are *mitoyens*.

XXXVI. And be it further enacted, &c., that it shall also be the duty of every such inspector within his division, and so often as he shall be thereunto required, to visit and examine all outlets, water-courses and brooks common to several lands or to any number of proprietors or occupants of land, the necessary labour concerning which shall have been regulated by *procès verbal* duly homologated, or by a *procès verbal* heretofore made by any inspector of fences and drains, or by an agreement made by the parties interested, and to see whether such work has been done conformably to such *procès verbal* or agreement, and to order that the same be done, repaired and kept in order in the manner stated in such *procès verbal* or agreement; and every person refusing or neglecting to conform to, and obey such order, within four days after written or verbal notice to that effect shall have been given to such person, or within the time fixed by the said inspector, shall incur a penalty of two shillings, currency, for each and every day such work shall thereafter remain unperformed: Provided always, that in all cases provided for by this and by the preceding section, it shall be the duty of every such inspector of fences and ditches, after the expiration of the delays

Duty of inspectors, when necessary, to visit all outlets of water.

Provido.

therein specified, to cause to be performed the work ordered and remaining undone at the expense of the persons bound to perform such work, and to recover the expenses thereof by suit before a justice of the peace, with costs and expenses, as directed by the fifth section of this act.

Duty of inspectors, when it shall be necessary to open any outlet.

XXXVII. And be it further enacted, &c., that in all cases when it shall be necessary to open any outlet or water-course, or to cleanse any brook common to the lands of several persons, the work connected with which shall not have been apportioned and regulated by any *procès verbal* or agreement, the matter in dispute shall be adjusted, on the requisition of one of the parties interested, by two inspectors resident in the parish, seignior or township, conversant with such matters and in no wise interested, and residing nearest to the place where such work is to be done, and in case there shall be no such inspector so conversant or not interested in the parish, seignior or township, then by two inspectors of the neighbouring parish, seignior or township, qualified as aforesaid.

Before the inspectors proceed to the execution of their duty, they shall give public notice, and require all interested to attend.

XXXVIII. Provided always, and be it further enacted, &c., that before any such inspectors, (who shall not be interested in the matter, nor related to any of the parties within the degree prohibited by law with regard to witnesses in courts of law,) shall proceed to the execution of the duties hereinbefore assigned to them, public notice shall be given by them, either verbally or by advertisement in writing, read at the door of the church, or other place of public worship, in the parish, seignior or township, immediately after divine service in the morning, and posted thereon on the two Sundays immediately preceding the day on which they intend to visit the place, requiring all persons interested to take notice of the same, and to attend at the time and place appointed; and in the townships and other places where there shall be no church or place of public worship, then the said notice shall be given personally, or in writing left at the residence of the parties interested.

After having given the notice aforesaid, the inspectors shall attend at the place, and after being informed of the matter in dispute, shall give their decision.

XXXIX. And be it further enacted, &c., that after having given the notice aforesaid, the said inspectors shall, on the day and at the hour fixed, proceed to the place, and after having become competently acquainted therewith, and after being fully informed of the matter in dispute, shall give their decision, and shall draw up a *procès verbal* of their proceedings, setting forth every thing to be done with respect to such outlet, water-course and brooks, for the general advantage of all the parties interested, and the time at which it shall be done, with such further particulars as they shall judge necessary or expedient concerning the matter, comprising also the expenses incurred as well for the examination of the place as for the advertisements, and for drawing up the *procès verbal*; which *procès verbal* shall be deposited in the office of the nearest notary, (or in the keeping of the nearest justice of the peace, if such *procès verbal* be made in any township,) and such notary or justice of the peace shall give a certified copy thereof to any of the parties interested therein who shall require it, on the payment of the expense of such copy, at the rate of six pence, currency, for every hundred words: Provided always, that each *procès verbal* so made, whether it concern one or more parishes, seignories, townships, or settlements, shall be homologated before one or more justices of the peace, in the manner hereinafter prescribed.

Procès verbal.

Proviso.

Owners of lands higher

XL. Provided always, and be it further enacted, &c., that the owners of lands which shall be higher than those of their neighbours shall not in

anywise be bound or required by any inspector or inspectors to make or assist in making the drains or water-courses through their lands, of any greater depth than may be necessary for draining their own lands: Provided further nevertheless, that it shall in all cases be lawful for the persons owning any adjacent land or swampy grounds, to make use of such drains or water-courses as aforesaid, through higher grounds, to clear out and deepen the same at their own expense, or where there are no such drains already existing, to cause the same to be opened in the manner and after the formalities hereinbefore prescribed in the thirty-seventh section of this act, in such manner as to carry off the water from their own lands, or to prevent the same from coming, lodging, or remaining thereon.

XLI. Provided always, and be it further enacted, &c., that it shall be the duty of all inspectors who shall draw up any *procès verbal* as aforesaid, to select and appoint from among the parties interested, and after having consulted with them, one or more overseers according to the importance of the work to be done, who shall, after their names shall have been inserted in the said *procès verbal*, carry the same into effect, and see that the work therein ordered to be done, as well with respect to the immediate performance thereof as to the keeping the same in repair in future, be duly performed for the general advantage of the parties interested therein: Provided further, that the persons so named as overseers shall not be bound to act as such during more than four successive years, if they shall consider the office burthensome and wish to be relieved therefrom, in which case, (as in case of death or infirmity or absence of one or more of such overseers,) or in case one or more of such overseers shall sell his property, the persons interested shall, when thereunto required by one or more such persons, who shall give notice thereof in the manner hereinbefore set forth respecting the view of the place, meet for the purpose of proceeding to a new election, which shall be made by the majority of the persons interested, then and there present, who shall cause a record thereof to be drawn up, and shall deposit the same in the place where the *procès verbal*, to which it has reference, shall have been deposited: Provided always, that it shall be lawful for all the persons interested in any *procès verbal* of a water course, homologated in any court of law, or in any such *procès verbal* made by any inspector of fences and drains, or made by agreement, to proceed in the manner above mentioned, to an election for the purpose of filling up the place of any overseer or overseers deceased, absent, or having sold their lands, or desirous to resign their office, after four years of service; and when such water-course shall concern two parishes, seigniories, townships, or settlements, one or more overseers from each place shall be appointed to see such *procès verbal* carried into effect; and any such overseer who shall neglect or refuse to cause such *procès verbal* to be carried into effect according to its form and tenor, after having been required so to do by one or more of the parties interested, at least eight days before, shall incur a penalty not exceeding five shillings, currency, for each day during which such work shall not be done in the manner provided by the *procès verbal*, allowing four days for performing such work.

than those of their neighbours, not bound to make their drains deeper than may be requisite for draining their own lands.
Proviso.

Inspectors to appoint overseers to carry the *procès verbal* into effect.

Proviso: period of overseers' service limited.

Proviso: overseers may be elected in certain cases.

Cases where two parishes, &c., may be concerned.

XLII. And be it further enacted, &c., that the inspectors after having drawn up their *procès verbal* as aforesaid, shall have a copy thereof prepared, which they shall cause to be read on the following Sunday after divine service in the forenoon, at the church door or other place of public worship, and when there is none, then at the most central or public place of

Inspector, after having drawn up their *procès verbal* to have it publicly read,

and afterwards the parish, seignior or township for which such *procès verbal* shall be made, homologated.

when such *procès verbal* will be presented for confirmation, and of the name of the justice of the peace to whom it will be so presented,—and that all persons interested therein may appear before such justice of the peace for the purpose of stating their reasons, (if any they have) why such *procès verbal* should not be confirmed; and a copy of the said *procès verbal* after it shall have been confirmed, shall be deposited in the keeping of such overseer or overseers, to be by them kept as a guide in the direction of the work, and for the information of all persons interested, to whom he or they shall give communication thereof, gratis, whensoever they shall require it; and every such overseer shall deliver the said *procès verbal* and all other records and papers relating to his office, to his successor or successors in office; and every such *procès verbal* shall be deposited after its homologation, in the office of the justice of the peace who shall have homologated it, under a penalty of twenty shillings, currency, against any justice of the peace neglecting to do so.

Erroneous construction of the act hereby repealed, how to be corrected.

XLIII. And whereas, the erroneous construction put by certain justices of the peace, upon the obligation of the inspectors of fences and drains to prosecute the homologation of the *procès verbaux* by them made according to the requirements of the act hereby repealed, has become prejudicial to opposants, and tends to impede the purposes of justice:—Be it therefore further enacted, &c., that any *procès verbal* drawn up under the authority of the act hereby repealed, and concerning one or more localities, which shall not have been homologated before one or before two justices of the peace, shall be null and of no effect until it shall have been homologated conformably to the requirements of the act * in that behalf, before the justice or justices of the peace nearest to the residence of the persons interested in such *procès verbal*.

* In the French version words equivalent to "hereby repealed or of this act," occur here.

Time fixed within which the work is to be done.

XLIV. And whereas it is necessary to fix the time within which the work ordered in any *procès verbal* shall be done:—Be it therefore enacted, &c., that the overseer or overseers chosen to superintend the execution thereof, shall give public notice at the door of the church, or of any place of public worship, on the two Sundays next preceding the day they shall appoint as hereinafter set forth, after divine service in the forenoon, and when there is no place of worship, then at the most public place in the settlement, parish, seignior, or township, of the day and hour when they will repair to the spot to cause the work to be begun and performed, whether it is to be done in common, or severally by the persons interested, accordingly as by the *procès verbal* it may have been appointed; and any person interested, who shall refuse or neglect to repair to the spot, on the day appointed, and to perform his share of the work within the time appointed by the overseer, shall incur a penalty of two shillings, currency, for each and every day during which he shall have neglected to do and perform his share of the work; and when at the expiration of eight days from the time appointed for beginning the work, none of the persons interested shall have done it, the said overseer may cause it to be done, and may recover the expenses from the parties in default, by prosecution before any justice of the peace, with costs: Provided always, that in cases where in a work is to be performed in common, the overseer may employ one or more men instead of such of the persons interested as shall have neglected to attend their duty, and may recover from every such person in default, the

Penalty on persons in default.

Proviso.

amount disbursed in paying the men employed, by prosecution before a justice of the peace as aforesaid, with costs.

XLV. And whereas it is just to allow an indemnification to the inspectors for the time they may employ in the execution of the duties hereby assigned them :—Be it therefore enacted, &c., that there shall be allowed to every inspector of fences and ditches, employed by virtue of this act, and to every *expert*, and he shall be entitled to recover, six pence for every hour he may be so necessarily employed, which shall be paid by the party in default or in the wrong, whether such party be that at whose instance he acted, or be he the adverse party in cases of *travaux mitoyens*, (joint labour,) and when he shall have been called on for a water-course, outlet, rivulet, or other stream whatsoever, then the six pence per hour, and all the expenses incurred for carrying into effect the notices and *procès verbal*, the copy and other expenses deemed necessary, shall be paid by all the persons interested in such water-course, outlet, rivulet, or other stream,—and in either case shall be recovered with costs, in a summary manner, before a justice of the peace.

Indemnification allowed to inspectors.

XLVI. And be it further enacted, &c., that when the inhabitants of any two or more parishes, seigniories or townships, shall be interested in the opening of any such new outlet or water course, or in the widening of any old outlet or brook, the matter in dispute shall be regulated, on the requisition of any person interested therein in each of the said parishes, seigniories, or townships, by applying to the road surveyor of each parish, seignior, township, or settlement, if he be not interested, and if he be interested, to an overseer of roads in each such place, respectively, who shall appoint two inspectors of fences and drains, conversant in such matters, and disinterested, in each parish, seignior, or township, who after having agreed upon the preliminary points of their operation, shall in the manner aforesaid, notify the persons of their respective parishes, seigniories or townships, who are interested in the matter, in order that they may, (if they think fit) attend at the view of the spot, and give the inspectors all the information in their power, towards enabling them to do justice to the persons interested, in the *procès verbal* which they shall draw up after having observed the formalities herein before prescribed ; and they shall deposit the said *procès verbal* in the office of the notary, (and if there be no notary, then with the justice of the peace,) nearest to such outlet, water-course or brook, and shall have a copy thereof made for each of the parishes, seigniories, or townships interested, which copy shall be deposited in the hands of the overseer or overseers whom they shall have chosen and named as above for conducting and superintending the performing and keeping up of the works : Provided that in all cases of difference of opinion and equal division of votes among such inspectors, upon any point or matter submitted to them as hereinbefore enacted, they shall apply to the inspector nearest the place, and not interested in the matter in dispute, as an umpire, who shall have the casting vote : Provided always, that the overseers chosen and appointed as aforesaid, shall in the execution of their duties, act in the manner herein prescribed, respecting outlets, water-courses and brooks, which are common to the inhabitants of one parish, seignior, or township, only.

When the inhabitants of any two or more parishes are interested in the opening of any water-course, the matter in dispute to be regulated in a certain manner.

See Tables.

Provided.

Provided.

XLVII. And whereas in certain cases great inconvenience might result from the performing of the work by the persons interested, by reason of their great number and the difficulty of the work :—Be it therefore enacted, Majority of persons interested in the performance of

the work to cause the work to be done by contract, each person paying his share.

&c., that on every such occasion the majority of the persons interested, may cause the said work, or any part thereof, to be performed by contract, each of them paying his share in money, according to an apportionment to be made by one or more persons conversant in the matter, which apportionment, before it shall go into operation, shall be ratified by one justice of the peace, after having been read during two successive Sundays, at the door of the church, or of any place of public worship in the parishes, seigniories or townships concerned, immediately after divine service in the forenoon, each reading and publication being followed by a hand-bill posted at the door of the church or other place of worship, making known to the persons interested, the day and hour and the place where such justice of the peace is to sit to take cognizance of the grounds of opposition, if any, to the ratification of such apportionment.

Duty of overseers, as to such outlets, water-courses, &c.

XLVIII. And be it further enacted, &c., that it shall be the duty of the overseers appointed with respect to every such outlet, water-course, or brook, to collect such sums of money as each of the parties interested shall be liable to pay by reason of the said apportionment, with all expenses incurred therein, and in case of refusal or negligence on the part of any such person, to compel the payment thereof by suit, before any justice of the peace resident in the place, with costs, including an allowance of six pence per hour to the overseer for the time he shall have lost by reason of the said suit, and the disbursements he may have been obliged to make for the payment of a clerk, if it shall have been necessary for him to employ one.

Limitation of powers of inspectors as to work connected with any outlet.

XLIX. Provided always, and be it further enacted, &c., that the powers hereby given, shall not in any case extend to authorize any inspector to make any change concerning the work connected with any outlet, water-course or brook, which shall have been previously regulated by a *procès verbal* lawfully made, whether such outlet, water-course or brook be common to several parishes, seigniories or townships, or only one such place be interested therein,—unless two-thirds at least of the persons interested in such work, shall require him to do so, and consent to a departure from the old *procès verbal*.

Parties complaining of the decision of inspectors, how to proceed.

L. And be it further enacted, &c., that if any of the parties interested in the decision given or orders made by an inspector or inspectors, by virtue of any of the provisions of this act, relating to outlets, water-courses and brooks, as well such decisions or orders as concern only one parish, seignior or township as those which concern several, shall deem himself aggrieved thereby, and shall be dissatisfied therewith, such party shall, within eight days, (reckoning from the day on which the *procès verbal* shall have been publicly read as aforesaid, at the church door or other place of public worship or public place,) lay his complaint before a justice of the peace. neither interested therein nor related to any one so interested within the degree prohibited by law in such cases, that is to say, within the third degree;—and the said justice shall, before the expiration of the said term of eight days, summon the inspector or inspectors to appear before him and one other justice of the peace, residing in the same county, not being interested in the matter in dispute, or related to any one so interested within the degree aforesaid, on some certain day, and to have with them the *procès verbal*, which, as well as the reasons in favor of or against it, (if any there be,) alleged by the parties or the witnesses, shall be maturely examined by the said justices;—and if it shall appear to them that the reasons alleged against the same are insufficient, and that the requisite formalities have been observed, and

See 41 G. 3 c. 8.

that there has been no partiality, or injustice or negligence in the conduct of the inspectors, then the said *procès verbal* shall be ratified, and shall be executed according to the form and tenor thereof ; and if on the contrary it shall appear to the said justices that there has been partiality or a want of exactness and diligence in examining the place, or that the work has not been equitably apportioned according to the custom of the country, then three *experts* shall be appointed, one by the plaintiff or plaintiffs, another by the defendant or defendants, and the third by the said justices of the peace, and if either of the parties shall refuse to name an *expert*, the said justices shall name one instead of such party ; and such *experts*, after being duly sworn before a justice of the peace (who is hereby authorized to administer the necessary oath) shall proceed to view the place concerning which the dispute shall have arisen, in the presence of the said inspectors and of the parties interested, (who shall be duly notified by the said *expert*, at least eight days before such second view shall take place, by notice given at the door of the church, or at the most public place in the parish, seigniorship or township, wherein the parties interested reside,) and the decision of the majority of the said *experts*, whether it be to confirm or to set aside the decision given by the inspectors, shall be final and conclusive to all intents and purposes whatsoever ; and if the said *experts* shall set aside the decision given by the inspectors, or if they shall deem it advisable to change the direction of the water-courses concerning which the dispute shall be, then the said *experts* shall make a fresh *procès verbal* which shall be confirmed by the justices of the peace : Provided always, that in every case of such appeal to the decision of the *experts*, the inspectors by whom the *procès verbal* appealed from shall have been made, may cause the parties at whose requisition it was made, to intervene and defend such *procès verbal*, and to pay the costs attending the same, if it be by the fault of the said parties that it is defective, but if it shall appear that such defect shall have arisen from negligence or partiality of the inspectors, then the said inspectors shall pay the costs thereof ; and the said justices of the peace shall homologate such *procès verbal*, if it be confirmed by such *experts*,—and if it be disallowed, they shall homologate that made by such *experts*.

Experts to be appointed in certain cases.

See Tables.

Provido ; as to costs.

LI. And whereas, the seed of noxious weeds growing on the land or ground of one proprietor, or upon a common, are frequently driven by the winds, and otherwise conveyed upon the lands and grounds of the adjoining proprietors, where, to the injury of such proprietors, and their discouragement with respect to agricultural improvements, they grow :—Be it further enacted, &c., that it shall be lawful for any proprietor or occupier of land, at any time between the twentieth day of June and the first day of the month of August, in each year, by verbal notice, in the presence of one witness, or by notice in writing, left at the domicile of the person to whom it may be addressed, or in case of a common in which several persons have shares or are interested, by notice published at the church door of the parish within which such common shall be situated, on a Sunday or holiday, (*fête d'obligation*) immediately after divine service in the forenoon,—to require any proprietor or occupier of any adjoining land, or a meadow, not being then sown or under crop, or the persons having shares or being interested in a common as aforesaid, to destroy or cut down all such noxious weeds, to wit, —those commonly called *marguerites*, also ranunculs, commonly called *marguerites jaunes*, and thistles, wild endive (*chicorée*) and *coteconniers*,

Manner of proceeding to compel the destruction of noxious weeds.

Penalty for refusing to destroy such weeds.

* *Sic. But in the French it is "against,"—(contre.)*

Duty of surveyors and overseers of highways, in causing noxious weeds to be cut down.

Proprietors of animals dead near public roads or on lands, to cause them to be buried.

Penalty.

Penalty for throwing animals dying of disease, &c., into brooks.

Limitation of prosecutions under this act.

Justices of the peace not entitled to any fee.

and all other noxious weeds whatsoever, as may be then growing on such adjoining land or piece of ground, the proprietor or occupier of land giving such notice, having himself first destroyed or cut down all such weeds, on his fields and grounds adjoining; and if the weeds so required to be destroyed or cut down are not entirely destroyed or cut down at the expiration of six days from the date of such notice, then it shall be lawful for any justice of the peace, upon complaint duly made before him, and the oath of one credible witness other than the complainant, or on the confession of the party or parties complained of,—to order in writing, the proprietor or occupier or other by* whom such complaint shall be made, to destroy or cut down such weeds within a period to be assigned by such justice of the peace, under a penalty on such proprietor or occupier, of two shillings and six pence, currency, for every day that such weeds shall remain standing or growing from and after the time at which such notice shall have been served upon him, with the expenses incurred in obtaining such order according to this act.

LII. And be it further enacted, &c., that it shall be the duty of the surveyors and overseers of highways, within the time limited in the foregoing section, to cause to be destroyed or cut down, by the persons bound to make and keep in repair the highways and bye-roads in their respective divisions, all weeds growing on highways or bye-roads, in their whole width, to the fences inclosing such highways or roads, under the same penalties on the said surveyors or overseers, and persons bound to make and keep in repair the said highways and bye-roads, as are provided in the acts now in force for neglect or default in keeping such highways and roads in repair, and recoverable in the same manner.

LIII. And whereas it frequently happens that animals dying of disease or otherwise, remain exposed in fields and other places, whereby travellers are incommoded and exposed to danger, and dangerous disease may be produced:—Be it therefore enacted, &c., that the owner of any such animal of what kind soever, who shall refuse or neglect to bury the same at least three feet under ground, and to cover the same with two feet of earth at least, shall incur a penalty of not more than ten shillings, currency, nor less than five shillings, currency.

LIV. And whereas it is also frequently happens that animals dying of disease or otherwise, are thrown into brooks, rivulets and rivers; and whereas individuals are in the habit of carrying filth in summer, and more particularly in winter, into the brooks, rivulets and rivers, and upon the ice of the said brooks, rivulets and rivers:—Be it therefore enacted, &c., that every person who shall be convicted, on the oath of the informer or other credible witness, of having so thrown any such animal, or so carted any such filth, (unless in or to a place appointed for that purpose by the competent local authorities,) shall incur a penalty of not more than twenty shillings, currency, nor less than ten shillings, currency, in addition to all damages.

LV. And be it further enacted, &c., that all fines and penalties incurred under this act, may be sued for and recovered within three months after the offence may have been committed, and not afterwards.

LVI. And be it further enacted, &c., that no justice of the peace, acting in obedience to, or under the authority of this act, shall be entitled to any fee or emolument in any case or under any pretext whatsoever: Provided always, that the following fees may be allowed and paid to such clerk as

he shall have been under the necessity of employing to assist him in the performance of the duties with which he is charged by this act; and that such clerk or other person shall not be entitled to more than one shilling currency, for any summons, and six pence, currency, for every copy thereof, nor to more than one shilling, currency, for any subpoena, and six pence, currency, for every copy thereof, nor to more than one shilling and three pence, currency, for enregistering any conviction; and shall be paid for drawing up any order in pursuance of such conviction, and for every other paper writing made with relation to any prosecution instituted under this act, at the rate of six pence, currency, for every hundred words, and no more; which said fees, as well as the allowance made to the witnesses, shall be taxed by the justice of the peace before whom such prosecution shall have taken place, and the taxed account of such costs and allowance shall be annexed to the judgment and make part thereof; and no bailiff, constable or peace officer employed in the execution of any thing to be done in conformity to this act, shall be entitled to more than one shilling, currency, for every league he shall be obliged to travel in the performance of such duty, the distance travelled in returning not being reckoned, nor to more than one shilling, currency, for the service of any summons or subpoena, nor to more than seven shillings and six pence, currency, for making a seizure under the authority of any order, or for levying any penalty under the authority of this act: Provided always, that no bailiff, constable or officer of the peace by whom several summonses or subpoenas shall be served in one day, at the requisition of the same plaintiff, and on the same road, shall be entitled to more than one shilling, currency, per league, for the distance travelled to serve the same, the distance travelled in returning not being reckoned as aforesaid.

Certain fees allowed to their clerks.
See Tables.
The fees.

Bailiff's fees.

Proviso.

LVII. And be it further enacted, &c., that all fines, penalties and forfeitures imposed and incurred for offences against this act, and not otherwise provided for, shall be sued and recovered on the oath of one credible witness other than the informer, or by confession of the defendant, before any one justice of the peace for the district wherein the offence shall have been committed, and shall be levied by warrant under the hand and seal of the justice of the peace before whom the conviction of the offender or offenders shall be had, and by seizure and sale of the goods and chattels; and one moiety of such penalty shall go to His Majesty, His Heirs, and Successors, and shall be paid into the hands of the receiver general, for the public uses of the Province, and the other moiety shall go to the prosecutor, (provided always that he be not a trustee or inspector, in which case, the whole penalty shall belong to His Majesty, His Heirs, and Successors); and the surplus of the moneys levied by such sale, shall be returned to the offender, after the amount of the fine and the costs of suit and execution shall have been satisfied.

Fines hereby imposed, how to be recoverable.

See Tables.

And how to be applied.

LVIII. And be it enacted, &c., that every person who shall be convicted of having wilfully taken a false oath in a case wherein a justice of the peace in the due fulfilment of his duties pursuant to this Act, may deem it necessary to administer an oath, shall incur the pains and penalties by law provided against wilful and corrupt perjury.

Penalty against persons committing wilful perjury.

LIX. And whereas the provisions of a certain act or ordinance, made, 30 Geo. 3. cap. &c., (30 Geo. 3. cap. 4.) are contained in this act, and the said act or ordinance thereby rendered unnecessary:—Be it therefore enacted, &c., that from and after the passing of this act, the said act or ordinance, &c., act.

(30 *Geo. 3. cap. 4.*) shall be, and the same is hereby suspended, for and during the continuance of this act.

One copy of this act to be forwarded to each inspector, for his guidance.

LX. And be it further enacted, &c., that one copy of this act, and no more, shall be forwarded to each of the inspectors of fences and ditches for his guidance in the performance of the duties hereby required of him, and that every such inspector upon retiring from office, shall transfer such copy of this act, to his successor in office for his guidance; and that every such inspector who shall retire from office, and shall refuse or neglect to transmit such copy to his successor in office for his guidance, shall incur a penalty of not less than five shillings, currency, nor more than ten shillings, currency.

Course to be adopted for preventing the obstruction of the navigation of rivers, occasioned by the felling of trees.

LXI. And whereas great inconvenience is frequently suffered, and much injury done to navigation and to mills, and the cultivation of low lands is impeded, by the obstructions occasioned by the felling of trees in rivers and rivulets:—For remedy thereof, be it therefore further enacted, &c., that every person who shall fell any tree, or shall allow any tree thrown down by the wind or otherwise, to remain in and obstruct any river, rivulet or water-course, shall incur a penalty not exceeding five shillings, currency, nor less than two shillings and sixpence, currency, for every day during which such tree shall remain therein, after the expiration of four days from the time he shall have been required by the person or persons interested, to remove the same, over and above all damages which may arise therefrom, and which may be recovered, to the amount of four pounds, three shillings and four pence, currency, before one justice of the peace, and if the damages shall exceed that sum, then before any civil court of competent jurisdiction.

See Tables.

Application of the monies to be accounted for to His Majesty.

LXII. And be it further enacted, &c., that the due application of the moneys received for the public uses of the Province, under the authority of this act, shall be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury, for the time being, in such manner and form as His Majesty, His Heirs and Successors shall direct.

Duty of the senior captain of militia in each seignior, &c., in respect of this act.

LXIII. And be it further enacted, &c., that it shall be the duty of the senior captain of militia in each seignior, township, parish or extra-parochial place, to publish or cause to be published the second, third, tenth, twelfth, fourteenth, sixteenth, eighteenth, fifty-second, fifty-third and sixtieth sections of this act, at the church door, immediately after divine service in the forenoon, or if there be no church therein, then the most frequented place in such seignior, township, parish, or extra-parochial place, on three successive Sundays in the month of March, in each and every year; and any such senior captain of militia who shall refuse or neglect so to publish the same, or to cause them to be published, shall for every such refusal or neglect, incur a penalty of twenty shillings, currency.

See Tables.

Continuance of this act.

LXIV. And be it further enacted, &c., that this act shall continue and be in force until the first day of May, one thousand eight hundred and forty-five, and no longer.

SCHEDULE A.

“DISTRICT OF } “By A. B., of the (parish, seignior, or township)
 } of Esquire, one of His Majesty's
“justices of the peace for the district of
“To C. D., of the (parish, seignior or township) of

Greeting:—

“You are hereby required in His Majesty's name, personally to be and
“appear before me the said justice of the peace at

“ in the (parish, seignior, or township) of the
 “ day of one thousand eight hundred and
 “ at the hour of in the noon, to
 “ answer to the complaint of the said (parish, seignior,
 “ or township) of (*prosecutor's addition*.) for having, at the
 “ (parish, seignior, or township) of on the
 “ day of one thousand eight hundred and (*Set*
 “ forth the offence.) against the form of the statute in such case made
 “ and provided ; hereof fail not at your peril.

“ Given under my hand and seal, at the (parish, seignior, or township,)
 “ this day of one thousand eight hundred
 “ and

“ A. B.
 “ L. S.”

3. AGRICULTURAL SOCIETIES.

An Act for the encouragement of Agriculture in this Province. 58 Geo. III.
 Cap. 6.

Most GRACIOUS SOVEREIGN,

WHEREAS the welfare and prosperity of this Province depend upon Preamble.
 its agriculture, for the encouragement and improvement whereof
 Your Majesty hath ever evinced the most paternal solicitude :—Wherefore,
 we, Your Majesty's most dutiful and loyal subjects, the commons of Lower
 Canada, in provincial parliament assembled, taking also into our considera-
 tion the speech delivered to us from the Throne, at the opening of the present
 session of the legislature, most humbly beseech Your Majesty that it may be
 enacted, and be it enacted, &c., that it shall and may be lawful to and for Agricultural
 the Governor, Lieutenant-Governor, or person administering the government societies may
 of this Province, for the time being, to advance, out of the unappropriated be formed in
 monies which at present are, or which hereafter may come into the hands certain dis-
 tricts.
 of the receiver general of the Province, a sum of money not exceeding two
 thousand pounds, current money of this Province, to any agricultural society
 or societies which already is or are, or that may hereafter be formed in the
 several districts of Quebec, Montreal and Three-Rivers, under the sanction But see Tables.
 of the Governor, Lieutenant-Governor, or person administering the govern-
 ment of this Province, for the time being, to be employed by the said socie-
 ties for the promotion and encouragement of agriculture ; and out of the said
 sum of two thousand pounds, that of eight hundred shall be employed for the
 aforesaid purposes in the district of Quebec,—that of four hundred pounds
 shall be employed for the same purposes in the district of Three-Rivers,—
 and that of eight hundred pounds shall be employed for the like purposes in
 the district of Montreal.

II. And be it further enacted, &c., that it shall and may be lawful to and Agricultural
 for the said agricultural society or societies, by advertisement in the news- societies to
 papers of Quebec, Montreal and Three-Rivers, and by such other notifica- offer premiums
 tions as the said societies may respectively think proper, to offer rewards or for superiority
 premiums for the production of any specimen of superior excellence of any in agricultural
 species of grain, pulse, or other useful vegetables, the growth of this Pro- produce, mode
 vince,—for the invention, production or extension of the use of any imple- of culture, im-
 ment or implements, utensil or utensils of agriculture or of tillage, fit for See Tables.
 35 *

abridging labor, or capable of procuring any other important advantage,—for the introduction of any improved method or practice of culture or husbandry,—or for the attainment of any other object whatsoever, whereof the promotion or encouragement is within the scope of the institution of the said society or societies; and that the rewards or premiums which the said society or societies may have offered, shall be publicly distributed or paid in the several counties of the said districts, at the places which shall have been indicated by the notifications: And provided always, that no single premium shall exceed in amount the sum of twenty pounds, current money of this Province.

Agricultural societies to offer premiums for superior excellence in cattle, &c.

See Tables.

Horses.

Neat cattle.

Sheep.

Hogs.

Societies to report to the legislature.

III. And whereas the breeding of good and strong horses, and of good and strong neat cattle, and the improvement of the breed of sheep and hogs, would produce great benefit to the inhabitants and to the Province:—Be it further enacted, &c., that any person or persons, being a subject or subjects of His Majesty residing within this Province, who, upon a day to be fixed by any such society or societies as aforesaid, once in every year, (public notification therefor being made in manner abovementioned, and at the places indicated by the said notifications,) shall produce at such place or places the best stallion, mare or gelding, of the age and height to be fixed by the respective societies as aforesaid, such stallion, mare or gelding, being of the genuine Canadian breed, shall be entitled to a premium or reward, not exceeding twenty pounds, current money of this Province: And any person or persons who shall produce the best bull, cow or heifer, of the age and breed to be so fixed, shall be entitled to a premium or reward not exceeding twenty pounds, currency: and the person or persons who shall produce the best ram, ewe or wether, of the age and breed to be so fixed and notified, shall be entitled to a premium or reward not exceeding five pounds, currency: and the person or persons who shall produce the best hog, male or female, of the age and breed to be fixed and notified as aforesaid, shall be entitled to a premium or reward not exceeding five pounds, currency: which said several sums or premiums shall be paid out of the monies by this act appropriated, on the fact being established by inspection and report of persons appointed by the said society or societies.

IV. And be it further enacted, &c., that each of the said societies of agriculture respectively, shall report the application of the said sums of money to the three branches of the legislature within the first ten days of the next session, with their remarks and observations upon the state of agriculture, and upon what may remain to be done for the advancement thereof.

1 Geo. IV.
Cap. 5.

An Act further to encourage Agriculture in this Province.

MOST GRACIOUS SOVEREIGN,

Preamble.

£2500 granted for the encouragement of agriculture.

The present agricultural societies may have auxiliary societies, and

WHEREAS it is expedient to appropriate a further sum of money for the encouragement of agriculture in this Province:—We, therefore, &c., and be it enacted, &c., that it shall and may be lawful for the Governor, &c. (*Mere appropriation clause effete. See tables.*)

III. And be it further enacted, &c., that the agricultural societies which already are established in the cities of Quebec and Montreal, and in the town of Three-Rivers, may take such measures as they may deem expedient to encourage and promote the formation of auxiliary agricultural societies,

under the sanction of the Governor, Lieutenant-Governor, or person administering the government of the Province, for the time being, in the several counties throughout their respective districts, and may allow them a portion of the monies hereby appropriated, in proportion to the extent of the county for which such auxiliary agricultural societies are formed, not exceeding the sum of one hundred and eighty pounds, currency, to any one such auxiliary agricultural society.

IV. And be it further enacted, &c., that the agricultural societies in the said cities and town, shall not advance any sum of money to any auxiliary agricultural society in their respective districts, unless the same shall conform in every respect to the requirements of the above-mentioned act of the fifty-eighth year of His late Majesty's reign, and of the present act, nor until such auxiliary agricultural societies shall have submitted a statement of the monies by them respectively intended to be employed as premiums, gratifications or otherwise; and the sums so to be advanced shall be regulated, in proportion to the exertions of such auxiliary agricultural societies to accomplish the purposes of the said act.

V. And be it further enacted, &c., that each of such auxiliary agricultural societies may, from the monies aforesaid, allow premiums according to the above-mentioned act, and to such farmers, who maintained their lands the best in order, with respect to ditches and drains and in the cultivation of the fields and meadows, and whose stock of cattle excel either in kind or in the number thereof.

VI. And be it further enacted, &c., that the agricultural society for the inferior district of Gaspé, duly sanctioned by the Governor, Lieutenant-Governor, or person administering the government of the Province for the time being, as aforesaid, shall proceed and be regulated as other agricultural societies in this Province, and may allow moderate premiums to such as may clear and cultivate the most land in the second and other rear concessions in any township or place in any part of the said inferior district.

VII. And be it further enacted, &c., that the auxiliary agricultural societies in the several districts, shall transmit, in the course of the month of November next, to the principal society for the district, in the city of Quebec and Montreal, and town of Three-Rivers, respectively, a statement of their rules and proceedings and of the progress they have made, pursuant to this act, and of the monies by them respectively expended in virtue of the same, with such further observations, tending to the promotion and encouragement of agriculture, as they may judge expedient.

IX. And be it further enacted, &c., that no part of the monies by this act appropriated, shall be, by any of the agricultural societies in this Province, paid for or on account of the salary of any secretary or writer to any agricultural society, or for travelling expenses, nor for any other expense whatever of any such agricultural society, expenses for stationery and printing alone excepted.

An Act to appropriate a certain sum of Money therein mentioned for the encouragement of Agriculture.

MOST GRACIOUS SOVEREIGN,

WHEREAS it is expedient to appropriate a certain sum of money for the encouragement of agriculture:—May it therefore please Your

may allow them a portion of the monies appropriated.

See Tables.

No money to be advanced to any auxiliary society, unless they conform to 58 Geo. 3. cap. 6, and the present act.

See Tables.

Auxiliary societies may allow premiums in certain cases.

An agricultural society may be formed for the district of Gaspé, and may allow premiums.

See Tables.

Auxiliary societies to transmit a statement of their proceedings and expenditure to the district societies.

No money shall be paid for any salary of any secretary, or other expenses, except for stationery or for printing.

9 Geo. IV. Cap. 48.

Preamble.

Majesty, &c., and be it enacted, &c., that it shall be lawful for the Governor, &c., (*Mere appropriation clause. Effete.*)

Members of the legislature and resident clergy to be honorary members.

See Tables.

Proviso.

VII. And be it further enacted, &c., that the members of the legislature and the resident clergy, shall be honorary members of the district agricultural society for the district within which they respectively reside, and they shall in like manner be honorary members of the subordinate or county societies of the county wherein they may respectively reside, and shall as such be notified in writing of the time and place of the meeting of such societies : Provided always, that nothing herein contained shall be construed to prevent any such member of the legislature or resident clergyman from becoming a member, if he shall so think proper.

4 Will. IV.
Cap. 7.

An Act to make more ample provision for the encouragement of Agriculture.—(*Temporary.*)

MOST GRACIOUS SOVEREIGN,

Preamble.

Agricultural societies to be organized in each of the counties of this Province.

WHEREAS it is expedient to provide more amply for the encouragement of agriculture in this Province :—May it therefore please Your Majesty that it may be enacted, and be it enacted, &c., that from and after the passing of this act, an agricultural society may be organized in each of the counties of this Province ; such society being composed of a president, vice-president, a secretary, a treasurer, and twelve other members, taken from the persons subscribing the sum of five shillings, currency, per annum, or upwards, towards the funds of the said society, and elected at a public meeting by all the subscribers of the said society, subscribing five shillings per annum, or upwards, to the said society.

When elections are to be held.

II. And be it further enacted, &c., that the elections shall be held every two years, in the course of the month of June ; and such election shall take place for the first time during the month of June next, on any day in the said month, (Sundays and holidays excepted ;) and at such first election, the militia officers highest in grade in the county, shall preside, or in case of absence, the militia officer highest in grade present ; and such election shall be announced on the two Sundays immediately preceding the same, at the door of each church in such county, or at the most public place in those parts thereof in which there shall be no church, by a public notice, to be given by an order or orders to be issued for that purpose, by the militia officer highest in grade in the county, mentioning the place, day and hour of such election ; of which meeting, and the election of president, vice-president, secretary, treasurer, and members, then made, an authentic *acte* shall be drawn up, and transmitted to the civil secretary, by the person who shall have presided at the meeting, for the information of the Governor, Lieutenant-Governor, or person then administering the government of the Province.

Duty of the president of each agricultural society.

Governor may issue a sum

III. And be it further enacted, &c., that the president of each such agricultural society so organised, shall annually transmit to the Governor, Lieutenant-Governor, or person administering the government of the Province, a list, sworn to before any justice of the peace, (who is hereby authorized to administer the necessary oath,) of the names of the subscribers, mentioning the amount of their respective subscriptions opposite to the names of each of them ; and at any time after the receipt of such list, it shall be lawful for the Governor, Lieutenant-Governor, or person then

administering the government of the Province, to issue his warrant in favour of such president, for a sum to be taken out of the unappropriated monies which now are or hereafter may be in the hands of the receiver general of this Province, and which sum shall be only equal to twice the sum which shall appear by the said list to have been subscribed, and paid by the subscribers, in such county; provided that such sum so advanced shall not, for any county, exceed the sum of eighty pounds, currency.

IV. And be it further enacted, &c., that the president of each such society shall annually transmit to the three branches of the Legislature, within fifteen days after the opening of each session of the provincial parliament, a report of its proceedings, showing the amount of the subscriptions received in the course of the year, and the amount received out of the public chest, the expenses of the society, the names of the persons to whom it shall have granted,* the object for which such premiums were obtained, and all such other observations and informations as he shall deem likely to tend to the improvement of agriculture.

V. And be it further enacted, &c., that it shall be lawful for the president, or in case of his death or absence, the vice-president, of each such society, to call a meeting of the members thereof, from time to time, for the purpose of deliberating upon the objects with reference to which it was instituted, and of determining and regulating the expenses and the management of the business of the society; and all the proceedings which shall take place at any such meeting, shall be entered in the journal of the society, and signed by the president and secretary.

VI. And be it further enacted, &c., that the catholic rectors (*curés*), or the protestant clergymen, in each parish in the county, the legislative or executive councillors resident in the county, and the members representing the county, shall be honorary members of such society, and may vote at the meetings thereof.

VII. And be it further enacted, &c., that the president of each such society shall be and is hereby authorized to name the persons to be judges at each exhibition held in the county, who shall not be in any manner competitors for any premium at such exhibition.

VIII. And be it further enacted, &c., that the president, or in case of his death or absence, the vice-president, elected at the time of the election of the members of the society, shall be bound to announce the then next ensuing election, in the manner prescribed by the second section of this act: Provided always, that it shall be lawful to re-elect the president, and all or any of the members elected at any preceding election.

IX. And be it further enacted, &c., that the due application of the monies hereby appropriated, shall be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury, in such manner and form as His Majesty, His Heirs and Successors, shall be pleased to direct.

X. And be it further enacted, &c., that immediately after the passing of this act, all sums of money appropriated by any previous act of the provincial legislature, for the encouragement of agriculture, by means of premiums, and which at the time shall not have been expended by the different agricultural societies, which in virtue of any such act, were authorised to receive and expend the same, shall cease to be applicable to the said object, and shall remain in, or be refunded into, the hands of the receiver general of

equal to twice those subscribed, but not exceeding, for any county, £80.

President annually to transmit to the legislature a report of the proceedings of the society.

* Word "Premiums" omitted, see French.

President, &c., may call meetings of the members, and sign the journal of their proceedings.

Catholic rectors, (*curés*), &c., declared honorary members.

President to name the judges at exhibitions.

President, &c., to announce the next ensuing election.

Providio.

Application of the monies to be accounted for.

All sums appropriated by any previous act, to remain in or be refunded into the hands of the receiver general.

the Province, for the public uses thereof, except such sums only as shall at the time of the passing of this act be lawfully due by any such agricultural society.

Continuance of this act.

But see Tables.

XI. And be it further enacted, &c., that this act shall be and remain in force, until the first day of May, one thousand eight hundred and forty, and no longer.

4. BREAD, ASSIZE OF.

17 Geo. III.
Cap. 10.

An Ordinance concerning Bakers of Bread, in the towns of Quebec and Montreal.

Preamble.

No person to carry on the business of a baker without entering into a recognizance, to keep the regulations relating to the assize of bread, and to continue to bake and sell bread all the year.

But see Tables.

TO prevent the frauds and abuses that might be committed by persons carrying on the business of baking and selling bread, it is ordained and enacted by, &c., that from and after the first day of May next, no person whatsoever shall bake and sell bread in either of the towns of Quebec and Montreal, or the suburbs thereof, without having first entered into a recognizance to the King's Majesty, in the sum of twenty pounds, with two sureties in the sum of ten pounds each, to keep and observe the regulations relative to the assize and weight of bread, that shall be made by the commissioners of the peace of the district in which such baker shall dwell, by virtue of the power hereinafter given to the said commissioners; and also to continue to bake and sell bread during a certain reasonable time, to be mentioned in the said recognizance, which shall not be less than one year, without intermitting their said trade for the space of three days together: this recognizance shall be taken by any two commissioners of the peace, of the district in which such baker shall propose to follow his trade, in one of the weekly sessions of the said commissioners; and the clerk of the peace shall have a fee of two shillings and six-pence, and no more, for making out the said recognizance.

Penalty for baking and selling bread, without having entered into such recognizance, £5.

Time and manner of suing for such penalty.

And if any person shall, after the said time, bake and sell bread in either of the said towns or suburbs, without having first entered into such a recognizance, such person shall forfeit five pounds for every offence, which shall be recovered by the clerk of the peace of the district in which such offence shall have been committed, if the said clerk of the peace shall sue for the same within one month after the commission of the offence; and if the clerk of the peace shall neglect to sue for the same within the said month, then it shall be lawful for any other person to sue for the same, at any time within the space of three months after the commission of the said offence; and the said penalty shall be sued for, by information before any two commissioners of the peace of the district in which such offence shall have been committed, who shall hear and determine the same in a summary manner, on the oaths of two credible witnesses (neither of whom shall be the informer himself) and shall levy the said penalty, together with the costs of suing for the same, by warrant under their hands, to seize and sell the goods of the offender; one moiety of such penalty shall belong to the King's Majesty, and the other half to the clerk of the peace, or other informer who shall sue for the same.

Appeal to the quarter sessions.

Any person convicted in this manner, and thinking himself aggrieved by such conviction, shall be at liberty to appeal to the next general quarter

sessions of the peace; provided he first deposits the penalty and costs in the hands of one of the commissioners of the peace before whom he shall have been convicted, to be by such commissioner, paid to the uses abovementioned, if the conviction is confirmed, and to the appellant, if it is reversed: If the conviction is confirmed, the commissioners in their general quarter sessions, shall order the costs the informer shall have been put to by the appeal, to be levied upon the goods and chattels of the appellant; and if the conviction is reversed, it shall be lawful for them to adjudge to the appellant, the reasonable costs he shall have been put to in the whole course of the prosecution, or such part of such costs as they shall think proper, and to order the same to be levied out of the goods of the person who shall have brought the said information.

II. If any baker who shall have entered into such recognizance as is above mentioned, shall intermit his trade of baking and selling bread for the space of three days together, or shall commit any offence against the regulations that shall be made by the commissioners of the peace, concerning the assize and weight of bread, or shall do any other thing, whereby the money specified in the said recognizance shall become forfeited, the money so forfeited shall be sued for by the clerk of the peace of the district in which such offender dwells, before the commissioners of the peace of such district, in their next general quarter sessions of the peace, after such offence shall have been committed; and if he fails to sue for it at the said next general quarter sessions, then it may be sued for and recovered by any other person in the Province, in the ensuing quarter sessions of the peace for the said district,—that is, in the second quarter sessions of the peace after the commission of the offence; and the said money so forfeited, may be sued for and recovered by the said clerk of the peace or other person, by information before the said commissioners, in their said sessions: And the said commissioners are hereby authorized and required to hear and determine the said information in a summary manner and upon the oaths of two credible witnesses; and if upon such information, the defendant shall be convicted by the commissioners of having committed such offence, they shall order the said sum of twenty pounds, together with the costs of suing for the same, to be levied upon the goods and chattels, lands and tenements of the said offender; and if sufficient goods and chattels, lands and tenements, belonging to the said offender; cannot be found by the sheriff or other ministerial officer, to produce the said sum, the said commissioners shall, in such case, summon the two sureties of the said offender to come before them in their quarter sessions, and shew cause why they should not pay the said sum of ten pounds each, or so much thereof as is necessary to increase the sum levied upon the goods and chattels, lands and tenements of the offender, to twenty pounds; and for want of any good and sufficient cause, the commissioners of the peace, either in the same or in the next following quarter sessions, shall make another order to the said sheriff or other ministerial officer, to seize and sell so much of the goods and chattels, lands and tenements of the said sureties, as shall be sufficient to increase the sum already raised upon the offender himself, to twenty pounds, taking care as much as may be, to raise an equal sum on each surety; and of the said sum of twenty pounds, so forfeited and levied, one half shall belong to the said clerk of the peace or other informer, together with the costs above mentioned, and the other half shall belong to the King's Majesty, and shall be paid into the hands of the receiver general of His Majesty's revenue in this

Manner of
suing for the
penalty of the
recognizance.

Province; and if, upon hearing the said information, the said commissioners shall acquit the defendant, and they shall be of opinion that the said information is frivolous, and brought without any appearance of reason,—it shall be lawful for them to award to the baker, who shall have been so informed against and acquitted, his reasonable costs, or such part thereof as they shall think fit, and to order the same to be levied upon the goods and chattels of the clerk of the peace or other person, who shall have brought the said frivolous and groundless information.

Penalty on bakers selling bread under weight, or of unwholesome flour.

III. If any baker shall bake and sell any bread under the weight established by the commissioners of the peace, or shall bake and sell any bread made of unwholesome or adulterated flour,—such baker shall for every offence forfeit the sum of forty shillings, one half of which shall belong to the King's Majesty, and the other half to the person who shall sue for the same, by information before any one commissioner of the peace of the district in which such offence shall have been committed, who shall hear and determine such information in a summary manner, upon the oath of one credible witness (being some other than the informer) and shall levy the sum so forfeited, together with the cost of suing for the same, by a warrant in writing under his hand, to seize and sell the goods of the offender.

Bakers to mark their bread with the initial letters of their names.

IV. Every baker shall mark his or her bread with the initial letters of his or her christian and sur-name, under the penalty of forfeiting all such bread as shall be found without such mark, to be applied to the use of the poor, or the prisoners, at the discretion of the commissioners of the peace, before whom any complaint, relative to such offence, shall have been heard.

Commissioners of the peace to regulate and publish the assize once a month.

V. The commissioners of the peace, or any three of them, are hereby authorized and required to fix and regulate the assize of bread, the first Monday in every month, having always regard to the price of wheat and flour, and to publish such regulations as they shall make, relative thereto, in the Quebec Gazette.

5. CHASSEUR'S MUSEUM.

6 Will. IV.
Cap. 47.

An Act to vest in His Majesty the property of Pierre Chasseur's Museum of Natural History, for public benefit.

This act merely provides that Chasseur's Museum, which is vested in the Crown for public uses, “shall be open to the inspection of the public, free of charge, every day, (Sundays, holidays and Thursdays excepted), between the hours of ten o'clock in the forenoon and four o'clock in the afternoon, in the room over that in which the sittings of the legislature were held at Quebec, under such regulations as shall be made in that respect by the clerk of the assembly, with the sanction of the Governor, Lieutenant-Governor, or person administering the government of the Province.”

6. CHURCHES, GOOD ORDER IN.

See Class E. 11. Page 66.

7. CLERKS OF THE PEACE, UNCLAIMED GOODS IN THEIR HANDS.

An Act to authorize the sale and disposal of certain Goods ^{6 Will. IV.}
 unclaimed and remaining in the possession of the Clerks of ^{Cap. 5.}
 the Peace, in this Province.

WHEREAS divers goods and effects found in the possession of noto- ^{Preamble.}

rious offenders and suspected persons, supposed to be stolen properly, are frequently brought to the offices of the clerks of the peace in the cities of Quebec and Montreal, and in the town of Three-Rivers, and of which the legal owners not being known, remain unclaimed and are liable to damage and often to total loss :—For remedy thereof, be it enacted, &c., that from and after the passing of this act, it shall be the duty of the clerks of the peace in the several districts of Quebec, Montreal and Three-Rivers, respectively, to keep or cause to be kept, a book in which shall be regularly entered all goods or effects brought to their respective offices as having been stolen or suspected to be stolen, stating (if the same can be ascertained) from whom they were stolen, received or taken, and the person in whose possession they were found, and the time when, with such other particulars respecting the same, as may be deemed necessary towards proving the theft, or ascertaining the proprietors ; and it shall be the duty of the said clerks of the peace, respectively, to cause a fair copy of all the entries of goods or effects in such book, and which remain unclaimed in their several offices, to be made out and signed by them or any one of them, and laid before the judges of the court of King's bench for criminal pleas, at every term thereof, and it shall be lawful for the said judges, or any of them, by a written order addressed to the said clerks of the peace, to authorize them to cause such of the said goods and effects as have not been claimed, and the owners whereof are not known, to be sold by public auction.

^{Duty of the clerks of the peace for the several districts of this Province.}

II. And be it further enacted, &c., that such sales shall previously be publicly advertised in any two of the newspapers published in either of the said cities of Quebec and Montreal, as the case may be, (and if in Three-Rivers, in any newspaper published thereat) three times in the space of one month next after the date of said order or authority to sell, with respect to such merchandise and effects as shall be judged susceptible of deterioration, and three times during six months, for such as shall be judged susceptible of being preserved without being spoiled during that time, giving notice of the place where the said goods and effects may be seen every day (Sundays and holidays excepted) between the hour of noon and two in the afternoon before the sale, to the end that any person having lost the same, or any part of such merchandise or effects, or being interested therein, may claim them ; and in case any of the said goods or effects may, on inspection, be claimed by any person or persons as owners thereof, any two justices of the peace of the district, on legal proof that the same or any part or parcel of them, belong *bonâ fide* to the person or persons claiming the same as owners, may deliver or order such goods or effects so claimed, to be delivered, to the owner or owners thereof, who shall respectively give a receipt or receipts for the same, which receipt or receipts shall be written in the said book of original entry.

^{Sales to be publicly advertised.}

III. And be it further enacted, &c., that if such goods and effects be not claimed as above mentioned, the proceeds of the sale thereof (the necessary charges of advertising and selling the same being previously deducted) ^{Price of goods, &c., not claimed, how to be disposed of.}

shall be paid over to the receiver general, to be at the disposal of the legislature.

Application of
the money how
to be account-
ed for.

IV. And be it further enacted, &c., that the due application of all monies arising from the sale of any such goods and effects as aforesaid, and from this act, shall be accounted for to His Majesty, His Heirs, and Successors, through the lords commissioners of His Majesty's treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall be pleased to direct.

8. EMIGRANT HOSPITAL.

The Acts 3 Geo. 4. cap. 7, and 1 Will. 4. cap. 26, are omitted for the reasons stated in the tables.

9. FEES OF THOSE EMPLOYED BY JUSTICES OF THE PEACE.

See Class D. 31. Page 181.

10. FERRIES, FERRYMEN.

17 Geo. III.
Cap. 12.

An Ordinance empowering the Commissioners of the Peace to regulate the prices to be paid for the Carriage of Goods and the Passage of Ferries, in the Province of Quebec.

Preamble.

Commission-
ers of the peace
to make regu-
lations con-
cerning carts
and ferries.

See Tables.

TO prevent the many impositions practised by carters and ferrymen within this Province:—It is ordained and enacted, &c., that the commissioners of the peace, in their quarter sessions, shall be, and hereby are authorized and required to fix and regulate, as often as they shall see occasion, in their respective districts, the rate that shall be paid for the carriage of any goods on any cart, truck or sled, within the towns of Quebec and Montreal, or the suburbs thereof; and likewise the rate that shall be paid for the passage at any ferry, over any river, within their respective districts; and likewise to make such other and further regulations, touching the premises, as shall to them appear necessary and expedient: and the said commissioners shall cause such rates and regulations, so made, to be published in the Quebec Gazette, and to be affixed at such convenient places as they shall think proper.

Penalty for dis-
obeying such
regulations.

See Tables.

How to be re-
covered.

II. Any carter or ferryman who shall, after the publication of any such rate or regulation as aforesaid, ask or receive a higher price than is thereby allowed, or shall refuse to work and be employed at the price specified in such rate, or shall disobey any of the regulations to be made by the commissioners as aforesaid, shall, for every offence, forfeit the sum of twenty shillings,—to be recovered, if sued for within fifteen days, by information before any one commissioner of the peace, who shall hear and determine such information in a summary manner, and upon the oath of one credible witness, (being some other than the informer) and shall cause such penalty, together with the costs of suing for the same, to be levied by a warrant to seize and sell the goods of the offender; one-half of every such penalty shall belong to the King's Majesty, and the other half to the person who shall sue for the same.

An Ordinance for the better regulation of Ferrymen, and others conveying persons for hire across the Rivers and Waters of this Province. 2 Vict. (3.)
Cap. 13.

WHEREAS it is expedient to make more efficient provision for the regulation of ferrymen, and persons conveying passengers for hire across the several rivers and waters of this Province:—Be it therefore ordained and enacted, &c., that from and after the fifteenth day of April, next after the passing of this ordinance, no person shall act as a ferryman, or shall convey, or cause to be conveyed by any one in his or her service, any person across any river, stream, lake, or water within this Province, without having received a licence under the hand of the Governor, Lieutenant-Governor, or person administering the government of this Province, for the time being, (or under the hand of some person by him duly authorized to that effect) to keep a ferry across any such river, stream, lake, or other water, for a certain time, at a place, and within limits, to be designated in such licence,—nor shall the person having received such licence, act as a ferryman, or so convey, or cause to be conveyed, any person for hire, at any place to which such licence shall not extend, or beyond the limits mentioned therein,—under a penalty of five shillings currency, for each person so conveyed contrary to the provisions of this ordinance; and such penalty shall be recoverable in a summary manner, before any one justice of the peace, on the oath of any credible witness, other than the informer, to whom such penalty shall go and shall be paid over by such justice of the peace, who, if such penalty be not forthwith paid, shall levy the same by distress and sale of the goods and chattels of the offender, or, if sufficient goods and chattels belonging to him or her cannot be found to pay the whole amount of such penalty, may cause the offender to be arrested, and may commit him or her to the common gaol of the district, for a term not exceeding fourteen days, or until such penalty be paid in full.

II. Provided always, and be it further ordained, &c., that nothing in this ordinance shall extend to exempt any person receiving such licence as aforesaid, from obedience to any lawful regulations or orders respecting ferries and ferrymen, made or to be made by the justices of the peace at their quarter sessions in the several districts of this Province, or by any competent authority; to all which such person shall be subject as if this ordinance had not been passed.

III. Provided also, and be it further ordained, &c., that nothing in this ordinance shall extend to the owner or master of any vessel plying between any two ports in this Province, or regularly entered or cleared by the officers of Her Majesty's customs at any such port.

IV. Provided also, and be it further ordained, &c., that any licence granted under the provisions of this ordinance, may be revoked at any time by a notice in writing to that effect, from any person authorized to give such notice, by the Governor, Lieutenant-Governor, or person administering the government, and delivered in the presence of two witnesses, to the person holding such licence, who shall thenceforth be considered as having no such licence.

11. FEVER HOSPITAL, QUEBEC.

Acts 10 & 11 Geo. 4. Cap. 18, and 1 Will. 4. Cap. 25, are omitted for the reasons stated in the Tables.

No person to act as ferryman without a licence.

Sec Tables.

Nor to convey passengers beyond the limits assigned, under a penalty of 5s. currency. How to be recovered.

Nothing in this ordinance to affect lawful regulations respecting ferries. See 17 Geo. 3. cap. 12.

Not to affect vessels plying between ports of this Province.

Licence may be revoked.

12. FIRE, ACCIDENTS BY.

An Ordinance for preventing accidents by Fire.

17 Geo. III.
Cap. 13.

Preamble.

An overseer
to prevent
accidents by
fire to be ap-
pointed.
* But see Ta-
bles.

Who shall
cause the
chimneys to be
swept once a
month.

* But see Ta-
bles.

Under a penal-
ty for every
neglect.

Penalty for re-
fusing to allow
any chimney
to be swept.

Every house-
keeper to pro-
vide buckets,
hatchets, fire-
poles, and lad-
ders.
* But see Ta-
bles.

Hatchets and
fire poles.

Ladders.

WHEREAS it is absolutely necessary for the preservation of the lives and properties of His Majesty's subjects, that every precaution should be taken to prevent the dreadful accidents that might happen by fire, in the towns of this Province:—It is ordained and enacted, &c., that for each of the towns of Quebec, Montreal* and Three-Rivers, there shall be an overseer to prevent accidents by fire, to be appointed by His Excellency the Governor, the Lieutenant-Governor, or other the Commander-in-Chief of this Province, for the time being.

II. The said overseers shall cause every chimney made use of in the towns and suburbs of the towns,* in which they are overseers, to be swept and scraped as high as possible, once in every month, by able and skilful chimney sweepers, whom they shall employ for that purpose; and for every chimney which they shall so cause to be swept and scraped, they shall receive six-pence from the occupier of the house to which such chimney belongs; and the overseer shall forfeit the sum of five shillings, for every chimney that shall be neglected to be swept and scraped, once in every month, by the persons employed by him, whether such chimney happens to take fire or not; and if the chimney so neglected to be swept and scraped shall take fire, the said overseer shall forfeit the sum of forty shillings, to be recovered in the manner hereinafter directed.

III. If any occupier of any house, or of apartments therein, shall refuse to let his chimney or chimneys be swept as aforesaid, by the chimney sweepers employed for that purpose by the overseer of the town in which such chimney shall be situated; he shall for every such refusal forfeit the sum of five shillings; and if the chimney which he shall refuse to allow to be swept shall take fire, he shall forfeit the sum of forty shillings.

IV. Every house-keeper in the said towns and suburbs, shall keep two buckets for carrying water when any house shall happen to be on fire; and these buckets shall be made either of leather, or seal skin, or of canvas painted on the outside and covered with pitch on the inside, and shall hold at least two gallons of water each: the said buckets shall be marked with the christian and surname of the house-keeper to whose house they belong.

And every house-keeper in the said towns and suburbs, shall keep a hatchet in his house to assist in pulling down houses, in order to prevent the spreading of the flames,—and two fire-poles, of the length of ten feet, and five inches diameter, with cross bars made of wood stuck into them at a convenient distance one from the other, in order to knock off the roofs of houses that are on fire, or that are in immediate danger of becoming so.

And every house-keeper in the said towns and suburbs, shall keep as many ladders on each side of his house as there may be chimneys or stacks of chimneys, to be properly and securely fixed with iron hooks or bolts, on the roof and from the roof to the tops of the chimneys, and so placed that easy access may be had to sweep the chimneys or carry up water to them in case of fire. And every proprietor of any buildings covered with wood in the said towns and suburbs, shall keep as many ladders on such buildings as the overseer shall think reasonable and necessary.

And every house-keeper, for every neglect of having the said buckets, hatchet, fire-poles and ladders, or any of them, shall forfeit the sum of five shillings; and in case any house, or the chimney of any house, in or upon which any of the said articles shall be wanting, shall happen to take fire, the occupier of such house shall forfeit the sum of forty shillings.

The expense of the said buckets, hatchet, fire-poles and ladders, shall be borne by the proprietors of the houses; and if they neglect or refuse to furnish them, the occupiers shall procure them, and deduct the expense of them out of their rents.

V. If any house-keeper shall, after the publication of this ordinance, keep or permit any hay or straw in any part of the house in which he lives; or shall keep any ashes on a wooden floor, or in a wooden vessel, in the said house, or in any outhouse, he shall forfeit the sum of forty shillings for every such offence, and likewise the hay or straw that shall be found in any part of the dwelling-house.

VI. It shall be unlawful for any person, in either of the said towns* or suburbs, to keep or have at any time more than twenty-five pounds of gun-powder in his house or lodging, or in any out-house thereunto belonging; and the person in whose dwelling-house, lodging, stable or other outhouse, a larger quantity shall be found, shall forfeit the sum of five pounds, together with the whole of the gun-powder.

VII. It shall be unlawful for any person to build or cause to be built, in either of the said towns* or suburbs, any false chimneys, called in French *cheminées dévoyées*, or to make or cause to be made or constructed, any fire-place at a distance from the main chimney or chimneys of any house, and communicating therewith in a winding direction, for the purpose of discharging the smoke through the flue of such main chimney or chimneys; and any person offending therein shall, for every chimney or fire-place so built, made or constructed, forfeit the sum of ten pounds, and five shillings per day, as long as such chimney or fire-place shall be suffered to stand and remain; and every mason or other artificer, that shall be employed in building such chimney or fire-place, shall forfeit the sum of three pounds; and all chimneys or fire-places, of the above description, that are already built, shall be taken down and removed, or effectually stopped up, within six months after the publication of this ordinance, under the penalty of one shilling for every day they shall remain unremoved, or not stopped up, after the expiration of the said six months; to be paid by the owner of the house to which such chimney or fire-place shall belong.

IX. It shall not be lawful, hereafter, to build in either of the said towns* any wooden dwelling-house, under the penalty of twenty pounds on the proprietor, and ten pounds on the undertaker or contractor, and a demolition of such dwelling house; nor to make any fire in any wooden out-house under the penalty of forty-shillings.

X. It shall not be lawful to pass the pipe of a stove through any partition of wood, or wood and lime, or through a wooden floor, without leaving six inches clear between the pipe and the partition or floor, the pipe to be surrounded with a sheet of iron, which shall be nailed to such partition or floor; and the pipe of every stove shall pass into a chimney: every person offending in the premises, shall forfeit twenty shillings.

XI. All houses hereafter to be built, shall have their gable-ends raised three feet higher than the roof, and projecting out far enough at the eaves,

Penalty 5s. for every neglect, and 40s. if the house take fire.

Proprietors to bear the expense of those articles.

No hay or straw to be kept in a house or ashes on a wooden floor or vessel.

No more than 25 pounds of gunpowder to be kept in any house or out-house.
* But see Tables.

No false chimneys or *cheminées dévoyées* to be built hereafter.

* But see Tables.

Penalty on the owner per day until removed.
Penalty on the builder.

False chimnies already built to be stopp'd.

Penalty.

No wooden house to be built in town, &c.

* But see Tables.

Manner of passing the pipe of a stove through a wooden partition or floor.

Manner of building the

gable ends of houses, for the future.

to guard them from the fire of an adjoining house; for every neglect hereof the owner of the house shall forfeit the sum of ten pounds, and the builder shall forfeit the sum of five pounds.

Overseer to visit every house once in three months.
Penalty.

* See Tables.

Overseer to make his visits once a month, if he thinks proper.

Penalty for refusing to admit him.

XII. For the better discovering offences against the ordinance, the overseers shall visit all the houses in their respective towns,* once in every three months, under the penalty of five shillings for every house they shall neglect to visit: and it shall be lawful for the said overseers, if they think fit, to visit every house once a month, at any time between the hours of eight in the morning and six in the evening; and every person refusing to admit the overseer into his house, provided he has not visited the same within the space of one month then last past,—or who having admitted him, shall refuse to produce to him the buckets, hatchets and fire-poles, or shall refuse to shew him the ladders which every house-keeper is bound to provide,—or shall prevent him from visiting any part of his dwelling house or out-houses, in order to enquire into and discover any offence that may be committed against this ordinance,—such person shall, for every such refusal, forfeit the sum of five shillings.

Overseer may visit any house at any other time, having a warrant for that purpose.

* But see Tables.

Penalty for refusing to admit the overseer.

Overseers empowered to take one person with them in their visits.

* See Tables.

Manner of recovering the penalties against the overseer.

And besides the said quarterly visits which the overseers are obliged to make, and the said monthly visits which they are permitted to make, when they think proper, it shall be lawful for them to visit the houses and out-houses in their respective towns* and suburbs, at any other time, provided that some person shall have first made oath before a commissioner of the peace, that some particular offence, which he shall specify, is committed against this ordinance, in or about the house or houses which the overseers propose to visit at these extraordinary times; and the said commissioner of the peace shall thereupon give the overseer so applying, a licence or warrant to visit any house, lodgings, stables, or other out-houses, so informed against; and a refusal to admit the overseer when so authorized, shall subject the occupier of such house, lodgings, stables, or other out-houses, to a penalty of five pounds for every refusal.

XIII. In all cases where the overseers are directed or permitted to make their visits as aforesaid, it shall be lawful for them to take along with them one person as a companion or assistant,* and a refusal to admit such companion or assistant, shall in every case subject the person refusing, to the same penalty as a refusal to admit the overseers themselves.

XIV. All penalties and forfeitures incurred by any overseer, for any offence against this ordinance, shall be recovered by information before any one commissioner of the peace of the district, in which the town, to which such overseer belongs, shall be situated; who shall hear and determine such information in a summary manner, and upon the oath of one credible witness (being some other than the informer) and shall cause such penalty or forfeiture, together with the costs of suing for the same, to be levied by warrant to seize and sell the goods of the offender; one half of every such penalty or forfeiture shall belong to the King's Majesty, and the other half to the informer.

Manner of recovering the penalties against other persons.

XV. All penalties and forfeitures incurred by any other person than the said overseers, for offences against this ordinance, shall be sued for and recovered by the overseer for the town in which the offence shall be committed, by information before any one commissioner of the peace of the district in which such town shall be situated,—who shall hear and determine such information in a summary manner, and upon the oath of one

credible witness (being some other than the overseer himself) and shall cause such penalty or forfeiture, together with the costs of suing for the same, to be levied by warrant to seize and sell the goods of the offender; one half of every such penalty or forfeiture shall belong to the King's Majesty, and the other half to the overseer who shall sue for the same.

XVI. The penalties and forfeitures appointed by this ordinance, shall be sued for within ten days after the offence for which they shall be incurred. Penalties to be sued for in ten days.

XVII. If any person convicted before one commissioner of the peace of any of the neglects or offences before mentioned, shall think himself aggrieved by such conviction, he shall be at liberty to appeal therefrom to the next court of quarter sessions of the peace of the district wherein such conviction was had; provided he do first deposit the money forfeited upon his conviction, together with the costs awarded upon such conviction, in the hands of the commissioner before whom he shall have been convicted; and the said commissioner shall, at his discretion, either keep the said money in his own hands, or pay it to the clerk of the peace of the court before which the appeal is brought, to be paid by the said commissioner or clerk of the peace in the manner hereinabove directed, if the conviction is confirmed; or to the appellant, if it is reversed; and further, if the conviction is affirmed, the appellant shall pay to the informer the costs he shall have been put to by the appeal; which costs shall be levied upon the goods and chattels of the appellant, by an order of the commissioners in their said quarter sessions. Appeal to the quarter sessions.

An Act or Ordinance to amend *An Act or Ordinance for preventing Accidents by Fire*, passed in the seventeenth year of His Majesty's Reign. 30 Geo. III. Cap. 7.

WHEREAS by an ordinance of this Province, passed, &c., (17 Geo. 3. cap. 13.) it is amongst other things enacted, that the overseers of chimnies shall cause every chimney made use of in the towns and suburbs of the towns in which they are overseers, to be swept and scraped as high as possible, once in every month, and shall receive six pence from the occupier of the house to which such chimney belongs, for each chimney so swept: And whereas several poor inhabitants, occupiers of apartments in the small houses of the suburbs of Saint Roc, have represented their inability to pay the charge aforesaid:—For the relief of all such poor, be it enacted, &c., that from and after the publication of this ordinance, if any overseer of chimnies in the Province, while in the receipt of an allowance from the government thereof, for sweeping the chimnies of the poor *gratis*, shall take or receive, or cause to be taken or received by any person whatsoever, any reward or emolument for sweeping the chimney of any poor occupier of any small house or apartment, in the towns or suburbs thereof, if such poor person shall produce to the said overseer, or to his agent or sweepers, a certificate of his poverty, signed by any curate or minister, or by a magistrate of the town or parish of which he is ordinarily an inhabitant, every such overseer and his agent shall incur a fine of five shillings for every such offence, one-half to His Majesty, and the other half to the use of the poor person or any other person who shall prosecute for the same; any act, regulation or authority to the contrary notwithstanding. Preamble. But see Tables. Overseers of chimnies to sweep the chimnies of poor persons, having a certificate, gratis. Penalty.

III. And be it enacted, &c., that all fines and forfeitures that shall be incurred in virtue of this ordinance, shall be sued for and recovered in the

How fines are recoverable.

same time, and in the same manner, with the same right of appeal, as is incurred under the ordinance above recited, of which no part is to be construed as altered or changed, other than as in this ordinance expressed or set forth.

59 Geo. III.
Cap. 8.

An Act to repeal in part an Ordinance passed in the seventeenth year of His Majesty's Reign, intituled, *An Ordinance for preventing accidents by Fire*, and for other purposes therein mentioned.

Preamble.

WHEREAS by an ordinance made and passed, &c., (17 Geo. 3. cap. 13.) it is amongst other things ordained and enacted, that no house or out-house thereafter to be built or new covered, in either of the towns or suburbs of Quebec and Montreal, and in the town of Three-Rivers, shall be covered with shingles in any part, except over the garret windows, round the chimnies, at angles where two roofs may happen to join, and where the boards touch the end walls, under certain penalties in the said act or ordinance mentioned: And whereas it is expedient to repeal so much of the same as is herein above-mentioned: Be it therefore enacted, &c., that from and after the passing of this act, the eighth clause of the above recited act or ordinance, (17 Geo. 3. cap. 13.) shall be and the same is hereby repealed.

But see Tables.

17 Geo. 3. cap.
13, repealed in
part.

After the passing of this act, roofs of the houses, &c., covered with shingles, to be whitewashed.

* See Tables.

Penalty.

II. And be it further enacted, &c., that after the passing of this act, all and every person or persons who shall cover or cause to be covered, his or their house or houses, shed or sheds, out-house or out-houses, or other building or buildings, or whose house or houses, shed or sheds, out-house or out-houses, or other building or buildings, may at the time of the passing of this act, be covered with shingles, in the said towns and suburbs of Quebec and Montreal,* and in the town of Three-Rivers, shall be held, between the fifteenth day of May and the fifteenth day of July of every second year, to white-wash the roof of every such house, shed, out-house or other building, with lime slaked in water impregnated with salt or other saline substances, under a penalty not less than two pounds, and not exceeding five pounds, current money of this Province, for every neglect or default so to do; which penalty shall be sued for and recovered by an action of debt or information in any of His Majesty's courts in this Province; any thing in the said ordinance contained in any wise to the contrary notwithstanding.

Persons painting their roofs, exempt from whitewashing for a certain time.

Proviso.

III. Provided always, and be it further enacted, &c., that all and every the person or persons who shall paint such roofs as aforesaid covered with shingles, with oil paint, shall be exempt from white-washing the same with lime as aforesaid, during five years (counting the year in which the same may have been so painted) next thereafter: Provided always, that such coat of paint be in like manner thereafter renewed at the expiration of every five years.

Duty of the overseer and inspectors of chimnies, in the said cities and towns.

* But see
Tables.

VI. And be it further enacted, &c., that it shall be the duty of the overseer or inspector of chimnies in each of the cities of Quebec and Montreal,* and in the town of Three-Rivers, to see that the several provisions of this act be duly executed and conformed to, and for this purpose be and shall be bound to visit, between the sixteenth day of July and the first day of September in every year, the several houses and buildings within the city or town of which he may have been appointed overseer, and to prosecute all

persons offending against this act, under the penalty of ten shillings, current money of this Province, against such overseer, for each and every house or building, the proprietor whereof he shall have neglected to inform against and prosecute, to be recovered in any of His Majesty's courts in this Province; and the said overseer or overseers shall be further bound to report to the first court of quarter sessions that may be held after the first day of September in each year, that the duties imposed upon him or them by this act have been performed.

VI. And be it further enacted, &c., that the penalties and forfeitures imposed by this act, shall be and they are hereby reserved for the use of His Majesty, His Heirs and Successors, for the public uses of the Province, and the support of the government thereof, and shall be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury, for the time being, in such manner and form as His Majesty, His Heirs and Successors shall direct.

Penalties reserved to His Majesty.

13. FISHERIES IN CORNWALLIS AND NORTHUMBERLAND.

An Act for the preservation of the Salmon Fisheries in the Counties of Cornwallis and Northumberland.

Geo. IV.
Cap. 51.

WHEREAS an act passed in the fourth year of His Majesty's reign, for the better regulation of the fisheries in the inferior district of Gaspé, and in the counties of Cornwallis and Northumberland, will expire on the first day of May next; and whereas it is expedient again to make provision for a limited time thereafter, for the preservation of the salmon fisheries in the county of Cornwallis, and in that part of the county of Northumberland, lying eastward of Cap Tourmente:—Be it therefore enacted, &c., that it shall not be lawful to catch or kill salmon in the said county of Cornwallis, or in that part of the said county of Northumberland * lying eastward of Cap Tourmente, by any means or in any manner whatsoever, from and after the said first day of August, in any year during this act; nor shall it be lawful, during the same period, to buy or receive from the Indians any salmon after the first day of August aforesaid, nor from any person whatever any salmon caught or killed and offered for sale in either of the said counties after the said day, under the penalty of five shillings, currency, for every offence in disobedience to this act: Provided always, that nothing herein contained shall be construed to extend to prevent the Indians from catching and killing salmon for their own and for their families' use at any time.

Preamble.

Penalty for catching salmon in the county of Cornwallis or Northumberland, eastward of Cap Tourmente, after the 1st day of August in any year.

Proviso.

* *Note.*—The county of Cornwallis extended from the westerly angle of the seignior of Saint Ann's to Gaspé, including the islands of Saint Barnaby and Bic; and the county of Northumberland from the south-westerly angle of the seignior of Beauport, to the eastern limits of the Province.—See Sir Alured Clarke's proclamation of 7th May, 1792.

II. And whereas it is necessary for the preservation and improvement of the salmon fisheries in the aforesaid counties, that salmon be not prevented from passing freely and without obstruction, the different rivers therein, up to their spawning places:—Be it therefore enacted, &c., that the channels or main water-courses of the several rivers in the said county of Cornwallis, and within the extent aforesaid of the said county of Northumberland, shall at all times be left open and free of obstruction of whatsoever places.

Salmon not to be prevented from passing freely and without obstruction up the rivers, to their spawning places.

- kind ; and where no channel can be ascertained, then one-third the breadth of the river, comprising the deepest water thereof or main-water-course, shall be so left open and free, under the penalty of five pounds, currency, recoverable from the person or persons who shall have caused such obstruction.
- Penalty.** III. And be it further enacted, &c., that it shall be the duty of each and every justice of the peace, officer of militia and peace officer, in the said counties respectively, on view or on complaint to him made, that any net or other obstruction hath been placed, and is in any river in his neighbourhood, contrary to the intent and meaning of this act, and in a manner manifestly prejudicial to the salmon fishery in such river, forthwith to remove, or cause to be removed, such net or other obstruction.
- Duty of the justice &c., on complaint made, that nets have been placed contrary to this act.** IV. And be it further enacted, &c., that the fines and forfeitures imposed by this act, may, within three months after the commission of the offence, but not afterwards, be prosecuted and recovered in a summary manner before any justice of the peace ; and that the testimony on oath of one credible witness, other than the prosecutor or informer, shall be sufficient to convict any person offending against this act.
- Fines and forfeitures recoverable in a summary manner.** V. And be it further enacted, &c., that every conviction before any justice of the peace ; that may take place under and by virtue of this act, shall be drawn up in the form prescribed in the appendix to this act (Letter A.)
- Conviction how to be drawn up.** VI. And be it further enacted, &c., that for each and every summons, including the information or plaint, that may at any time issue, in virtue of this act, from any justice of the peace, no greater sum than one shilling, current money aforesaid, shall be demanded, charged or paid ; and for each and every subpoena that may issue to compel the attendance of any necessary witness, no greater sum than nine pence, current money aforesaid, including the copy that may be served upon such witness, shall be demanded, charged or paid ; and for each and every conviction, including the entry of the same on the register as aforesaid, no greater sum than one shilling, current money aforesaid, shall be demanded, charged or paid ; and for a warrant of distress no greater sum than nine pence, current money aforesaid, shall be demanded, charged or paid ; nor shall any justice of the peace claim, exact or receive, under any cause or pretext whatever, any greater recompense or fee, with respect to any such summons, subpoena or copy of subpoena, conviction or entry thereof as aforesaid, or warrant of distress, or for any service or extra-service in relation with the same, than is hereby above allowed and specially authorized.
- Fees to the justices of the peace.** VII. And be it further enacted, &c., that for the services of any constable or peace-officer, in and about any prosecution under or in virtue of this act, no greater recompense or remuneration shall be allowed than is hereby specified, that is to say ;—for the service and certificate thereof of every summons, nine pence, current money aforesaid ; for the service and certificate thereof of every copy of a subpoena, nine pence, current money aforesaid ; for levying any penalty under and by virtue of this act, seven shillings and six pence, current money aforesaid ; and these allowances shall be exclusive of mileage, at the rate of one shilling for each and every league which such constable or peace officer must, in the due execution of such warrant of distress, or of any other duty by him to be performed under this act, necessarily and unavoidably travel from his home or domicile (distances in returning from the place of service, seizure or sale not counted,) and which mileage shall be in lieu of all travelling expenses.
- See Tables.**
- Fees allowed to the constable.**

VIII. And be it further enacted, &c., that the fines and forfeitures by this act imposed, shall in case of non-payment, be levied by distress and sale of the goods and chattels of the offender, by virtue of a warrant to this effect, under the hand of the justice of the peace before whom the conviction shall have taken place, directed to any constable or peace officer; and the overplus of money, if any, arising from the sale, after deducting the penalty and costs, shall be returned to the offender.

Fines and forfeitures how to be levied.

IX. And be it further enacted, &c., that one moiety of the fines and forfeitures by this act imposed, shall go to the prosecutor or informer, and the other moiety shall await the disposal of the provincial legislature, for the public uses of the Province, and be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall be pleased to direct.

One moiety of the fines to go to the prosecutor, and the other moiety to be at the disposal of the legislature.

X. And be it further enacted, &c., that nothing in this act contained shall in any manner prejudice the rights of His Majesty, or of any body politic or corporate, or any person or persons whomsoever, with respect to any of the rivers in the said county of Cornwallis and within the extent aforesaid of the said county of Northumberland, those in this act mentioned excepted.

Saving of His Majesty's rights, &c.

(APPENDIX A.)

" Province of Lower Canada, }
" County of }

" Be it remembered that on this day of
" in the year A. B. is convicted before me
" one of His Majesty's justices of the peace; (*Here set forth the offence*)
" and I do accordingly adjudge him, by virtue of an act passed by the
" legislature of this Province in the year of His Majesty's
" reign, intituled, *An act for the preservation of the salmon fisheries in*
" *the counties of Cornwallis and Northumberland*, to pay and forfeit by
" reason of the offence aforesaid, whereof the said A. B. stands convicted,
" the sum of
" Given under my hand at
" the day and year aforesaid

14. FORTIFICATIONS OF QUEBEC, TO PRESERVE THE.

An Act to restrain all persons from undermining the Cliffs on which the Fortifications of Quebec are constructed. 10 & 11 Geo. IV. Cap. 4.

WHEREAS the practice of blasting the rock which forms the cliffs of Quebec, by individuals, for the purpose of enlarging the limits of their possessions at the foot thereof, or for any other purpose, tends to the undermining of the fortifications and defences of the garrison of Quebec, and also to occasion the sudden descent of masses of stone upon the buildings beneath, and that it is expedient and necessary to obviate the mischief which there is reason to apprehend from the continuance of that unwarranted practice:—Be it therefore enacted, &c., that no proprietor or occupier of any lot of ground or portion of any lot of ground, adjacent to that part of

Preamble.

No person to blast any part

of the rock under the cliffs, without first presenting a petition to the court of King's bench, praying permission, &c.

the rock within the city of Quebec, and whereon the fortifications are erected, which is commonly called the cliffs of Quebec, or other persons whosoever, shall by blasting or mining, or in any other way, remove or cause to be removed, any portion of the said rock, which constitutes the said cliffs, within the city of Quebec, without having first presented a petition to His Majesty's court of King's bench for the district of Quebec, during term, or to any two justices of the said court in vacation, praying permission so to do, which petition shall be served upon the attorney general, or in his absence, upon any other law officer of the crown, together with the order of the said court or justices to shew cause, if any can be shewn, against granting the prayer of such petition, within forty-eight hours after the service aforesaid; and if no cause against the same be shewn accordingly, it shall be lawful for the said court or justices to grant the said permission; and upon cause being shewn, the said court or justices are hereby empowered to hear and determine upon the merits of the said petition, according to the titles of the parties respectively, and as to law and justice it shall appertain: Provided always, that in every such permission the extent to which such mining, or blasting, or other operation for the like purposes may proceed, and the time during which such permission is to avail, shall be set forth and specially and clearly determined: Provided also, that it shall be lawful for any of the parties aggrieved or pretending to be aggrieved by the judgment upon such petition, to appeal from the same to the provincial court of appeals, constituted and appointed according to the law now in force in that respect, the decision of which court shall be final: Provided also, that nothing herein contained shall be construed to deprive the Governor, Lieutenant-Governor, or person administering the government, of the authority to grant, if he think fit, the before mentioned permission to any person or persons applying for such permission without application to the court or justices aforesaid: Provided also, that in every permission so to be granted by the Governor, Lieutenant-Governor, or person administering the government, the extent to which the mining or blasting, or other operation for the like purpose may proceed, and the time during which such permission is to avail, shall be set forth.

Proviso.

Proviso.

But the Governor may grant such permission if he shall think fit.

Proviso.

Penalty on persons blasting or mining such rock without permission.

II. And be it further enacted, &c., that any person who, by blasting or mining, or in any other way, shall remove or cause to be removed any portion of the said rock which constitutes the cliffs within the city of Quebec, without having previously applied for and obtained such permission so to do, shall for every such offence, incur a penalty not exceeding twenty pounds, nor less than five pounds, currency.

Court of King's bench may issue an injunction until the rights of the parties shall have been determined.

III. Provided always, and be it further enacted, &c., that it shall be lawful for the said court of King's bench in term, or for any two of the justices thereof in vacation, upon the application of His Majesty's attorney general, or other law officer of the Crown, or of any person who may feel himself aggrieved by such blasting or mining, after hearing the parties interested, to issue, if it shall seem expedient to such court or justices, an injunction for the purpose of staying such blasting or mining until the rights of the party or parties so to mine or blast the said cliffs, shall be determined in manner as herein before provided.

Penalty how recoverable.

IV. And be it further enacted, &c., that whensoever proof that the penalty hereby inflicted, has been incurred, shall be made before any two justices of the peace for the district of Quebec, residing in the city of Quebec, either by the confession of the offender, or the oath of one or more credible

witness or witnesses, (which oath such justices are hereby authorized to administer,) such penalty, with the costs of prosecution, shall be levied by distress and sale of the goods and chattels of such offender, by warrant under the hands and seals of such justices; and any overplus, after deducting the penalty and costs, and the charges of distress and sale, shall upon demand be returned to the owner of such goods and chattels; and such penalty shall belong to His Majesty, and shall be paid into the hands of the receiver general, and shall await the disposal of the provincial legislature for the public uses of this Province.

V. Provided always, and be it further enacted, &c., that if goods and chattels shall not be found belonging to such offender, sufficient to satisfy the penalty, costs and charges as aforesaid, then and in that case it shall be lawful for such justices of the peace to commit such offender to the common gaol of the district of Quebec, there to be confined for a space of time which shall not be less than one month, nor more than six months.

If there be no goods to satisfy the penalty, the offender may be committed to prison.

VI. And be it further enacted, &c., that the due application of all monies levied by virtue of this act, shall be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall be pleased to direct.

Application of the money to be accounted for to His Majesty.

An Ordinance to revive and render permanent a certain Act 3 & 4 Vict. made to restrain all persons from undermining the Cliffs on which the Fortifications at Quebec are constructed. Cap. 27.

WHEREAS it is expedient and necessary for preventing serious damage and injury to the fortifications and military works of the city of Quebec, to revive and render permanent the act of the provincial legislature hereinafter mentioned:—Be it therefore ordained, &c., that the act, &c. (10 & 11 Geo. 4. cap. 4.) and every clause, provision, power, authority, direction, regulation, matter and thing therein contained, (excepting only the last section thereof, whereby the duration of the said act was limited to the first day of May, one thousand eight hundred and thirty-three, when it expired) shall be, and are hereby revived, and shall be and remain in full force and authority from and after the passing of this ordinance, in as full and ample a manner to all intents and purposes, as if the same were repeated and re-enacted in the body of this ordinance, saving only in so far as they may be in any wise contrary to the provisions of this ordinance.

Preamble.
Act 10 & 11 Geo. 4 cap. 4, revived and amended.

II. And be it further ordained, &c., that the words *City of Quebec*, in the said act and in this ordinance, shall be held and considered to mean and comprise the city and banlieue of Quebec; any thing in the said act to the contrary notwithstanding.

The term "city of Quebec," defined.

III. And be it further ordained, &c., that this ordinance, and the act hereby revived, shall be and are hereby made permanent, and shall be and remain in force until repealed or altered by competent authority.

This ordinance and the said act made permanent.

15. FOUNDLINGS, GUARDIANS TO.

2 Will. IV. An Act to appropriate certain sums of Money therein men-
Cap. 34. tioned, to the support of certain Charitable Institutions, and
for other purposes.

The first section of this act appropriated money, for the then year, (1832) towards the support of foundlings in the following institutions, viz :—The Hotel Dieu at Quebec,—the General Hospital of the Grey Nuns at Montreal,—the General Hospital at Quebec,—and under the charge of the commissioners for the district of Three-Rivers.

Commission-
ers to be the
legal guardians
of foundlings.

See Tables.

II. And be it further enacted, &c., that the said commissioners and their successors in office, shall be and are hereby constituted the legal guardians (*tuteurs*) of the foundlings in the institutions with reference to which they have been respectively appointed, and shall have such powers as they would have, if appointed to be such guardians in the ordinary course of law.

16. GRASS ON BEACHES, PRESERVATION OF.

6 Will. IV. An Act for preserving, for the purposes of Husbandry, the
Cap. 55. Grass growing on Beaches, in the District of Quebec.

Preamble.

Proprietors of
lands border-
ing on the
south side of
the river Saint
Lawrence be-
low Quebec,
entitled to cut
and cure grass
on the beaches
and strands
thereof.

Proviso.

Proviso.

WHEREAS it is necessary to make provision for preventing the destruction of the grass growing on the beaches and strands of the river Saint Lawrence, between high and low-water marks, below the city of Quebec, which grass in many places is sufficiently abundant to afford supplies of grass useful for the maintenance of cattle and other live stock during the winter, but is nevertheless for the most part rendered useless and lost, by suffering cattle to run at large, trampling and grazing upon the same :—Be it therefore enacted, &c., that the proprietors of the lands bordering the south side of the said river, below the city of Quebec, shall be entitled to cut and cure the grass on the beaches or strands thereof, between high and low-water marks, in the front of their respective lots of land and farms, to the exclusion of all other persons : And an action of trespass may be maintained by the party aggrieved against any and every person offending, by cutting any grass hereby reserved to such party as aforesaid, and contravening this act, to the prejudice of such party or person : Provided always, that in all cases of difficulty which may arise, the quiet and public possession, as had before the passing of this act, shall avail and be maintained : And provided further, that nothing herein contained, shall be construed to limit the right of fishing on the beaches, as heretofore established and exercised.

No person to
allow live stock
to stray or run
at large on the
said beaches or
strands.

II. And be it further enacted, &c., that it shall not be lawful for any person to suffer live stock of any description to stray or run at large between high and low-water marks, in the summer or autumn, on any of the said beaches or strands of the river Saint Lawrence, under the penalty of two shillings and six pence, currency, for every animal so allowed to stray or run at large as aforesaid, which penalty shall be recovered from the possessor or owner of such cattle ; and in case such possessor or owner shall not be known, the cattle or animals so straying or running at large, may be con-

fined by any person whomsoever, until the same shall be claimed by the owner or possessor, who shall pay to the person so detaining or confining the same, a reasonable price for the keeping thereof, which price, in case the owner or possessor refuses to pay, shall be levied in the manner provided for the penalties imposed and to be levied, by virtue of this act : *Provided* *Proviso.* nevertheless, that all persons seizing and detaining any cattle found straying, shall give notice thereof at the church door of the nearest parish, on a Sunday or other holiday after Divine service in the afternoon ; and if the said cattle be not claimed, and such expenses paid within eight days after such notice, then the said cattle may be sold by order of any justice of the peace, and the price, after deducting such expenses, and those of the notice, shall remain in the hands of such justice of the peace, for the owner of such cattle when known.

III. And be it further enacted, &c., that nothing in this act contained shall in any wise affect the rights of His Majesty, His Heirs or Successors, or of any person or persons, bodies politic or corporate, in any such beach or strand of the said river Saint Lawrence. *Saving of His Majesty's rights and of other persons.*

IV. Provided always, and be it further enacted, &c., that nothing in this act contained shall be construed to extend to give to the proprietors of the banks of the said river, any right or title whatsoever to inclose or embank, by fences or otherwise, the said beaches and strands, or in any manner to impede the free and open navigation and commerce over the said river, to all His Majesty's subjects, or to deprive any person of the free use of the beaches of the said river Saint Lawrence, as by the laws heretofore provided and in force, it is enacted and ordained. *Proprietors not entitled to enclose any part of the said beaches or strands.*

V. And be it further enacted, &c., that the penalty by this act imposed, shall be recoverable in a summary way, before any justice of the peace, upon the evidence, on oath, of any one credible witness, other than the informer, and be levied by seizure and sale of the goods and chattels of the offender, (returning to the said offender the overplus, if any, after deducting the costs of suit, seizure and sale,) by virtue of a warrant under the hand of a justice of the peace before whom the conviction shall have taken place. *Penalty may be recovered in a summary way.*

VI. And be it further enacted, &c., that one moiety of the fines and penalties levied under this act, shall go to the informer, and the other moiety to His Majesty, His Heirs and Successors, and shall remain at the future disposal of the provincial parliament, for the public uses of this Province ; and that the due application of the monies arising therefrom, shall be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall be pleased to direct. *Fines, when recovered, how applied.*

17. GUNPOWDER, STORING OF.

See Class C. 13. Page 72.

18. INDEMNITY FOR ACTS DONE IN SUPPRESSING THE REBELLION.

1 Vict. Cap. 10. An Ordinance for indemnifying persons who since the first day of October, One Thousand Eight Hundred and Thirty-Seven, have acted in apprehending, imprisoning, or detaining in Custody, persons suspected of High Treason or Treasonable Practices, and in the Suppression of unlawful Assemblies, and for other purposes therein mentioned.

Preamble.

See Tables.

All persons indemnified for acts by them committed or advised since 1st October, 1837, in putting down the rebellion.

See Tables, as to the ordinances for a like purpose, covering other periods.

WHEREAS a late armed insurrection of certain subjects of Her Majesty, in the district of Montreal, in this Province, with intent to subvert the government, and to plunder and destroy the property of the loyal inhabitants, has been happily subdued, but not until the insurgents had committed acts of murder, robbery and arson, and other offences, and had occasioned much alarm for the peace and security of the Province : And whereas, immediately before and during the said insurrection and in consequence thereof, it became necessary for justices of the peace, officers of militia, and other persons in authority in this Province, and for diverse loyal subjects of Her Majesty, to take all possible measures for apprehending, securing, detaining and bringing to justice, persons charged or suspected of joining in the said insurrection, or of aiding or abetting the same, or of other treasonable practices, dangerous to the peace of this Province and the security of its government, and also for the purpose of defeating and putting down the said insurrection, and for maintaining the peace of this Province, and securing the lives and properties of the inhabitants thereof ; And whereas some of such acts may not have been strictly legal and formal, but it is nevertheless just and necessary, that the persons doing or advising the same, should be kept harmless, and indemnified against actions at law, or other proceedings with which they might otherwise be harassed :—Be it therefore ordained and enacted, &c., that all personal actions, suits, indictments and prosecutions, heretofore brought, commenced, preferred or exhibited, or now depending, or to be hereafter brought, commenced, preferred or exhibited, and all judgments thereupon obtained, if any such there be or shall be, and all proceedings whatsoever against any person or persons, for or on account of any act, matter or thing, by him or them done or commanded, ordered or directed, or advised to be done, since the first day of October, in the year of Our Lord, one thousand eight hundred and thirty-seven, for apprehending, committing, imprisoning, detaining in custody or discharging, any person or persons who hath or have been imprisoned or detained in custody, for high treason, suspicion of high treason, or treasonable practices, or for apprehending, committing, imprisoning or detaining in custody, any person or persons who hath or have been imprisoned or detained in custody, for having been so tumultuously, unlawfully and traitorously assembled in arms, as aforesaid, or for dispersing by force of arms, any persons assembled as aforesaid, or for suppressing the said traitorous insurrection, and discovering and guarding against any other of the treasonable proceedings aforesaid, or for discovering and bringing to justice the persons concerned therein, or for maintaining the public peace, and the security of Her Majesty's subjects in their persons and property, or for supporting the government and constitution of this Province against the treasonable practices and proceedings aforesaid, shall be discharged and made void ; and that every person by whom any such act, matter or thing shall have been done or commanded, ordered, directed or advised to be

done, shall be freed, acquitted, discharged and indemnified, as well against the Queen's Majesty, Her Heirs and Successors, as against all and every other person and persons.

II. And be it further ordained, &c., that if any action and suit shall be or have been brought, commenced or had in any court of this Province, against any person or persons, for and on account of any such act, matter or thing as aforesaid, he and they may plead the general issue, and give this act and the special matter in evidence; and if the plaintiff or plaintiffs shall become non-suit, or forbear further prosecution, or suffer discontinuance in any such action or suit, or if a verdict shall pass, or judgment be pronounced or rendered, against the plaintiff or plaintiffs therein, the defendant or defendants therein shall be entitled to double costs, for which he or they shall have the like remedy, as in other cases in which costs, by law, are given to defendants.

This ordinance may be pleaded in evidence; and the plaintiff, if non-suited, subject to double costs.

III. And be it further ordained, &c., that if any action, suit, indictment, information, prosecution or proceeding shall be brought, commenced, preferred, exhibited or had in any court against any person or persons, for or on account of any such act, matter or thing as aforesaid, it shall be lawful for the defendant or defendants in any such action, suit, indictment, information, prosecution or proceeding, or for any of them, to apply by motion, petition or otherwise, to the court in which the same hath been or shall be brought, commenced, preferred, exhibited or had, or shall be depending, if such court shall be sitting, and if not sitting, then to any one of the judges or justices of such court, to stay all further proceedings in such action, suit, indictment, information, prosecution or proceeding; and such court, and any judge or justice thereof, when the said court shall not be sitting, is hereby authorized and required to examine the matter of such application, and upon proof by the oath or affidavit of the person or persons making such application, or any of them, or other proof to the satisfaction of such court, judge or justice, that such action, suit, indictment, information, prosecution or proceeding is brought, commenced, preferred, exhibited or had, for or on account of any such act, matter, or thing as aforesaid, to make an order for staying execution and all other proceedings, in such action, suit, indictment, information, prosecution or proceeding, in whatever state the same shall or may then be; and the court or the judge or justice making such order for stay of proceedings, in any action or suit as aforesaid, shall also order unto the defendant or defendants, and he or they shall have or be entitled to, double costs for all such proceedings as shall be had or carried on in any such action or suit after the passing of this ordinance, and for which costs he and they shall have the like remedy as in cases where costs are by law given to defendants: Provided always, that it shall be lawful for any person or persons being a party or parties to any such action, suit, indictment, information, prosecution or other proceeding, to apply by motion, petition or otherwise, in a summary way, to the court in which the same shall have been brought, commenced, preferred, exhibited or had, or shall be depending, to vacate, discharge or set aside, any order made by any judge or justice of that court, for staying proceedings, or for payment of costs as aforesaid, so as such application be made within the first two days of the term or session of such court next ensuing the making of any such order by any judge or justice as aforesaid,—and such court is required to examine the matter of such application, and to make such order therein, as if the application had been originally made to the said court; but neverthe-

Defendant may apply to the court in which such action may be brought, or to one of the judges, to stay proceedings, who, on proof that such action is commenced, may stay the same, and award double costs to defendant.

Proviso.

Parties to such action, &c. may apply by motion or petition to discharge such order, if application be made, &c.

less in the meantime, and until such application shall be made to the said court, and unless the said court shall think fit to vacate, discharge, set aside or reverse the order made by any such judge or justice as aforesaid, the same shall continue in full force to all intents and purposes whatsoever.

Persons discharged out of custody.

IV. And be it further ordained, &c., that all and every person or persons discharged out of custody as aforesaid, although he or they shall not have been discharged according to law, shall be deemed and taken to have been legally discharged out of custody.

19. INDIANS.

17 Geo. III.
Cap. 7.

An Ordinance to prevent the selling of strong Liquors to the Indians in the Province of Quebec, as also to deter persons from buying their Arms or Cloathing, and for other purposes relative to the Trade and Intercourse with the said Indians.

Preamble.

No strong liquors to be sold or distributed to Indians.

See Tables.

WHEREAS many mischiefs may be occasioned by the practice of selling rum and other strong liquors to the Indians, and of buying their cloaths and arms, and also by trading with the said Indians, or settling amongst them, without a licence ; It is ordained and enacted, &c., that from and after the publication of this ordinance, no person or persons whatsoever shall sell, distribute, or otherwise dispose of, to any Indian or Indians within this Province, or to any other person or persons for their use, any rum or other strong liquors, of what kind or quality soever, or shall knowingly or willingly suffer the same, in any manner, to come to the hands of any Indian or Indians, without a special licence in writing for that purpose, first had and obtained from the Governor, Lieutenant-Governor, or Commander-in-Chief of this Province for the time being, or from His Majesty's agents or superintendents for Indian affairs, or from His Majesty's commandants of the different forts in this Province, or from such other person or persons as the Governor, Lieutenant-Governor, or Commander-in-Chief of the Province, for the time being, shall authorise for that purpose.

Penalty.

Every person offending herein shall, for the first offence, forfeit the sum of five pounds, and suffer an imprisonment for any time not exceeding one month, and for the second and every subsequent offence, shall forfeit ten pounds, and suffer an imprisonment for any time not exceeding two months.

Besides forfeiture of licence, if a publican.

See Tables.

If the person so offending, be a publican, innkeeper, or retailer of strong liquors, he shall, over and above the said penalty and imprisonment, be rendered incapable, from the day of his conviction, of selling or retailing liquors to any person whatsoever, notwithstanding any licence that he may have for that purpose, which licence is hereby declared to be null and void from the day of his conviction.

No person to purchase the cloaths or arms of Indians.

Penalty.

See Tables.

II. From and after the publication of this ordinance, no person or persons whatsoever shall purchase, or receive in pledge or in exchange, any cloaths, blankets, fire-arms or ammunition belonging to any Indian or Indians within this Province, under a penalty of five pounds, and imprisonment for any time not exceeding one month, for the first offence, and of ten pounds, and imprisonment for any time not exceeding two months, for the second and every other subsequent offence.

III. From and after the publication of this ordinance, it shall not be law-
ful for any person to settle in any Indian village or in any Indian country, No person to settle in any Indian village without a licence.
within this Province, without a licence in writing from the Governor, Lieutenant-Governor, or Commander-in-Chief of the Province, for the time being, under a penalty of ten pounds for the first offence, and twenty pounds See Tables.
for the second and every other subsequent offence.

An Act to explain and amend the Act intituled, *An Act or Ordinance for promoting the Inland Navigation*, and to promote the Trade to the Western Country. 31 Geo. III. Cap. 1.

WHEREAS it is expedient to the prosperity of the commerce which it was the intention of the said ordinance to encourage, that it be en-
clogged with any unnecessary impediments, be it therefore enacted, &c.,
and it is hereby enacted, &c., (*Omitted. See tables.*) Preamble.

III. And to the end that the trade to the western districts and Indian countries may be free and open to all His Majesty's faithful subjects in every part of His Majesty's inland dominions and territories whatsoever, be it enacted, &c., that from and after the publication of this act, it shall not be necessary for any of His Majesty's subjects carrying on trade, or other stated residents of this Province, to take out any where or from any person or persons, any licence, pass, permit or other writing whatsoever, for going into or trading with the Indians or other inhabitants of the western countries, districts or counties of this Province, or territories whatsoever, or for the carrying or conveying thither or elsewhere, in boats, batteaus or canoes, any goods, wares or merchandize, or provisions or other effects not specifically prohibited, or for returning with the same or any part thereof, or with the produce in beaver furs or skins, or such other effects as may be legally carried, transported or imported, nor to subject traders to take licences for the sale of strong liquors to Indians, except at a fixed residence in a settled part of the Province, for keeping a house of public entertainment, as is required by an act of parliament passed in the fourteenth year of His Majesty's reign, intituled, *An act to establish a fund towards further defraying the charges of the administration of justice and support of the civil government within the Province of Quebec in America*; any law ordinance or regulation of this Province, heretofore made or passed, to the contrary notwithstanding. No licence required for trading in certain cases. Nor for the sale of strong liquors to Indians. Exception. 14 Geo. 3. c. 88. cited.

IV. Provided always nevertheless, and be it enacted, &c., that it shall and may be lawful for His Excellency the Governor or Commander in chief, for the time being, by and with the advice and consent of His Majesty's council, to restrain the trade and commerce to any part or place of the said western countries and inland territories, and regulate the same with any of the Indian tribes or nations, or other inhabitants thereof, and likewise to restrain and regulate the sale and distribution of spirituous liquors, in all forts and garrisons, and other places where Indians resort, and of arms, ammunition and other warlike or naval stores, when and so often as the public safety and peace may require, declaring the same from time to time by proclamation under the great seal. Proviso. How the trade may be restrained. See Tables.

VI. And whereas it is made penal to settle in the Indian villages without licence, by an act or ordinance, &c., (*17 Geo. 3. cap. 7.*) Be it further enacted, &c., that nothing in the said act shall be deemed to affect such as are lawfully employed in the inland commerce, or such as resort to this The ordinance of 1777, not to affect persons employed in

the inland commerce of those settling on the waste lands of the Crown.

See Tables.

Province, with the intention *bona fide* of settling the waste lands of the Crown, and who are in the course to conform to the regulations by the government for that purpose made and established, and shall so declare upon oath, when thereunto required, or to any other His Majesty's liege subjects, but to such only as, not being His Majesty's subjects, shall arrive at any port, post or place where any magistrate may reside, and shall not within twenty-four hours thereafter, take the oath of allegiance to the British Crown, being required, and shall refuse to take the oath in this clause first aforementioned; such defaulter shall incur a penalty of ten pounds, and may be committed and proceeded against as concerned in illicit trade.

Proviso.

Respecting passes.

VII. Provided always nevertheless, that it shall be lawful to all persons to pass and repass any part of this Province, with a permission under the signature of such person as shall be authorized to grant the same, by any instrument to be issued by the Governor or Commander in chief, for the time being, under his hand and seal at arms, such person conforming to the conditions, regulations and terms, in his permission prescribed or expressed.

3 & 4 Vict.
Cap. 44.

An Ordinance to repeal certain parts of an Ordinance therein mentioned, and to amend certain other parts of the said Ordinance, and to provide for the further protection of the Indians in this Province.

Preamble.

The 4th clause
of the ord. 17
Geo. 3, cap. 7.
repealed.

WHEREAS it is necessary to repeal certain parts of an ordinance hereinafter mentioned, and to amend certain other parts of the said ordinance, and to make provision for the further protection of the Indians in this Province:—Be it therefore ordained, &c., that from and after the passing of this ordinance, so much of an ordinance passed, &c., (17 Geo. 3. cap. 7.) as is contained in the fourth clause thereof, shall be and the same is hereby repealed.

Governor may order any person resident in any Indian village to remove therefrom, under a penalty and imprisonment.

II. And be it further ordained, &c., that it shall be lawful for the Governor of this Province, by a written instrument, to order any person who heretofore hath been, or now is, or may hereafter become resident in any of the Indian villages in this Province, to remove from such village; and in case of default by the said person or persons so to remove from such Indian village, within seven days from such order being signified to him, he shall forfeit the sum of five pounds, currency, for each and every day after the said seven days, during which he shall continue to reside or remain in such Indian village, with all costs of prosecution, and shall suffer imprisonment for a period not less than one month and not exceeding two months, and further, until he shall have paid the said last mentioned penalty and costs.

How penalties are to be recovered and imprisonment inflicted.

III. And be it further ordained, &c., that all the penalties imposed by the second and third clauses of the said ordinance, for the offences therein specified, and all the penalties and forfeitures imposed by this ordinance, shall be recovered by information on behalf of Her Majesty, Her Heirs or Successors, before any two or more of Her Majesty's justices of the peace, for the district or division of the said Province in which the offence shall have been committed; and such two or more justices of the peace are hereby authorized and required to hear and determine such information in a summary manner, and upon the oath of one credible witness, and to levy the said penalties, together with the costs of suing for the same,

by a warrant to seize and sell the goods and chattels of the person or persons offending, and to inflict the said imprisonment in the manner hereinbefore provided; all which said penalties and forfeitures shall be paid into the hands of Her Majesty's receiver general, for the public uses of this Province.

IV. And be it further ordained, &c., that all informations under and by virtue of this ordinance, shall be brought within six calendar months from the time that the offence shall have been committed, and not afterwards.

V. And be it further ordained, &c., that the word *Gouverneur* shall be taken and held to mean and comprehend as well the Governor, as the Lieutenant-Governor, and person administering the government of this Province, for the time being.

VI. And be it further ordained, &c., that this ordinance shall be and remain a permanent law, and in full force until it shall be repealed by competent authority.

Information to be brought within six months.

The term "Governor" defined.

This ordinance made permanent.

20. INDUSTRY, HOUSE OF, AT MONTREAL.

An Act to establish a House of Industry in the City of Montreal.

58 Geo. III.
Cap. 15.

WHEREAS the late John Conrad Marsteller, who died on the seventeenth day of May, in the year of Our Lord one thousand eight hundred and eight, did devise and bequeath by his last will and testament, certain real or immoveable estates, and the rest, residue and remainder of all and every his estates, property and effects, after payment of his debts and legacies, for the purpose of establishing in the city of Montreal, a House of Industry, which said real estates consist of two lots of ground, with two stone houses and other buildings thereon erected, situate in the main street of St. Mary's suburbs, in the parish of Montreal, in the district of Montreal; and whereas the establishment of such house of industry cannot be effected without the aid and assistance of the legislature:—
Be it therefore enacted, &c. *Omitted.*—*A corporation created by the name of "The Wardens of the house of industry of the city in Montreal," which shall have perpetual succession and a common seal, and the usual corporate powers; and the said property is vested in such corporation, which is to consist of wardens, being freeholders in and residents of the city of Montreal, and appointed in the first instance by the Governor.*

Preamble.

This Act is so exclusively local, that it has not been thought necessary to print all the sections at length.

II. *Omitted.*—*Certain of the wardens to go out of office at the end of every (two) years; and to be replaced by a like number duly qualified, to be nominated by the grand jury at the quarter sessions for the district. Certain persons exempted from serving. But see Tables.*

III. *Omitted.*—*The corporation may hold real property, for the purposes of the institution, to the amount of £3,000 currency, per annum; they may sell the lots and houses mentioned in the preamble and purchase others.*

IV. *Omitted.*—*The wardens shall have the direction and control of the house of industry, appoint a president and officers, and direct and superintend them in the performance of their duties, allow them salaries, &c.*

V. Omitted.—*The wardens shall annually appoint not more than seven overseers of the poor of the house of industry, being freeholders resident in Montreal ; who shall be exempt from serving as jurymen or constables ; certain persons exempted from serving as such overseers.*

VI. Omitted.—*Applications on behalf of persons being objects of charity, made to the overseers, to be reported to the wardens ; overseers to attend at the institution to receive such applications, and may grant immediate relief in urgent cases. Certain duties assigned them in superintending the observance of bye-laws, &c.*

VII. Omitted.—*The wardens or any five of them, authorized to make by-laws for the regulation of the institution ; which shall be valid when confirmed by the court of King's bench.*

VIII. Omitted.—*The president authorized to call meetings ; for the purchase or sale of real property five (now seven) wardens must be present at the meeting.*

IX. Omitted.—*Governor may appoint commissioners to visit the house of industry and report to him.*

X. Omitted.—*The places of wardens absent from the Province, or who may die, to be supplied by election.*

XI. Omitted.—*The wardens shall not be authorized to sell or convey any real property, without a licence from the Governor, or to take any such property without letters of mortmain.*

XII. Omitted.—*Penalty on persons elected or appointed wardens or overseers, who shall refuse to serve, after due notice..*

XIII. Omitted.—*Rights of the crown and other parties saved.*

XIV. Omitted.—*How penalties imposed by this act shall be recoverable.*

XV. Omitted.—*This act to be a public act.*

7 Geo. IV.
Cap. 4.

An Act relating to the Wardens of the House of Industry in the City of Montreal.

Preamble.

WHEREAS it is expedient that four of the wardens for the house of industry in the city of Montreal, should annually retire and be replaced by an equal number ; Be it therefore enacted, &c., *Omitted.—The Governor may appoint eight wardens, four of whom shall retire yearly, on the first of May, and be replaced by a like number, as provided in 58 Geo. 3. cap. 15. s. 2.—But see tables.*

II. Omitted.—*The clerk of the peace, shall notify the grand jury of the April sessions, of the duty imposed on them by 58 Geo. 3. cap. 15. s. 2.*

9 Geo. IV.
Cap. 43.

An Act further to amend an Act passed in the fifty-eighth year of the reign of His late Majesty, George the Third, intituled, *An Act to establish a House of Industry, in the City of Montreal.*

Preamble.

WHEREAS an act was passed, &c., (58 Geo. 3. cap. 15.) amended by an act passed in the second year of the reign of His present Majesty, George the Fourth, chapter the sixth, but it has been by experience

found insufficient for the purpose intended, by reason of the death or removal of wardens, and because of the ordinary quorum thereby established, consisting of a greater number of wardens than generally could be assembled ;—For remedy whereof, be it therefore enacted, &c.—*Omitted. Twelve wardens to be appointed, and six to retire every two years, and be replaced by a like number, as provided by 58 Geo. 3. c. 15 ;—the quorum for ordinary business to be three, and for the disposal of any real property, seven, including the President.*

II. *Omitted.—Act 2 Geo. 4. cap. 6, repealed.*

21. LAWS, WHEN TO COME INTO FORCE, &c.

An Act to declare and ascertain the Period when the Acts of the Provincial Parliament of this Province shall take effect. 36 Geo. III.
Cap. 1.

WHEREAS it is expedient that the period from which the laws of this Province are to have operation and effect, should be precisely ascertained :—Be it therefore enacted, &c., that the clerk of the legislative council of this Province, shall indorse on every act of the provincial parliament which shall hereafter pass, immediately after the title of such act, the day, month and year, when the same shall have passed, and shall have been assented to in His Majesty's name by the Governor, Lieutenant-Governor, or person administering the government : And in each and every case, where any bill shall have been reserved for the signification of His Majesty's pleasure thereon, that the day, month and year on which the Governor, Lieutenant-Governor, or person administering the government, shall signify, either by speech or message to the legislative council and house of assembly of this Province, or by proclamation, that such bill has been laid before His Majesty in council, and that His Majesty has been pleased to assent to the same, shall be indorsed thereon, and such indorsement shall be taken to be a part of such act, and to be the date of its commencement, where no other commencement shall be therein provided. Preamble.
Time from which acts of the provincial legislature have been in force, how to be ascertained.
See Tables.

II. And whereas doubts may arise, respecting the period from which the acts passed since the first session of the present legislature should take effect :—Be it therefore further enacted and declared, that all such acts as have passed since the first session of the present legislature, shall take effect from the day on which the same have been passed respectively, unless otherwise specially provided in any of the said acts ; any law or usage to the contrary notwithstanding. Acts passed since the first session, and before that in which this act was passed.

An Act to provide for the Publication of certain Laws, and for the printing and distributing to certain persons, for the purpose of public information, all Laws that have been, and shall be passed in the Legislature of this Province, under the present Constitution. 34 Geo. III.
Cap. 1.

WHEREAS certain laws have been passed in the first session of the legislature, under the present constitution, in the first enacting clause whereof are these words, *from and after the publication of this act*, which form of expression has created and may create doubts, as to the commencement of the operation of such laws ;—In order, therefore, to re- Preamble.

As to laws passed in the first session of the legislature.

move such doubts, be it enacted, &c., that all laws, passed in the last session of the legislature of this Province, shall be deemed and considered to have had full force and effect from the day of passing the same ; any law, usage or custom to the contrary notwithstanding.

Copies of all such laws shall be transmitted to the Governor, &c., and certain public functionaries.

III. And as it is expedient, that there should be a further and more ample means of the public having information of the laws that have been or may be passed in the legislature aforesaid, it is also enacted, &c., that as soon after the end of each session as can conveniently be effected, copies of the laws passed therein, so* printed in both languages, shall be transmitted by the clerk of the legislative council, to the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being, to the members of the legislature and of His Majesty's executive council, to the judges and clerks of the courts, the sheriffs, coroners and justices of the peace, to the field officers and captains of militia of each parish in this Province, and on the death or dismissal of any captain of militia, then the same to be delivered over to his successor in office : Provided always, that only one copy thereof in both languages, shall be transmitted to the same person, at the public expense.

But see Tables.

* That is by the King's printer.

Proviso.

1 Vict. Cap. 1. An Ordinance to declare and ascertain the period when the Laws and Ordinances made and passed by the Governor or Person authorized to execute the Commission of Governor, and Special Council of this Province, shall take effect.

Preamble.

WHEREAS it is expedient, that the period from which the laws or ordinances of the Governor, or person authorized to execute the commission of Governor, and special council for the affairs of this Province, are to have operation and effect, should be declared and ascertained :—Be it therefore ordained and enacted, &c., that the clerk of the special council for the affairs of this Province, or, in his necessary absence, the assistant clerk of the said special council, shall, on every law or ordinance which shall hereafter pass or be made by the Governor, or person authorized to execute the commission of Governor of this Province, with the advice and consent of the special council for the affairs of this Province, state, under his signature, as such clerk, or assistant clerk, immediately after the signature of the Governor, or person authorized as aforesaid, the day, month, and year when the same shall have passed, and shall have been assented to by the Governor, or person authorized to execute the commission of Governor of the said Province, and shall have had the great seal* of the said Province affixed ; and such statement, under such signature, shall be taken to be a part of every such law or ordinance, and the day, month and year, in such statement mentioned, shall be the date of its commencement, when no other period of commencement shall be declared or provided in and by such law or ordinance.

Ordinances to take effect from the date on which they shall have been assented to by the Governor, &c.

See Tables.

See 2 V. (2.) c. 10.

2 Vict. (2.) Cap. 10. An Ordinance to confirm certain Ordinances of the Governor of this Province, and of the Special Council for the affairs thereof, and to declare the period at which they respectively commenced and took effect.

Preamble.

WHEREAS the great seal of this Province was not, at or after the passing thereof, affixed to the ordinances hereinafter mentioned,

passed by the Governor of the said Province, by and with the advice and consent of the special council for the affairs thereof, and doubts may arise out of the omission in that respect, and as to the time and times when the said ordinances respectively commenced and took effect ; and whereas it is expedient to remove and obviate any such doubts in that behalf :—Be it therefore ordained and enacted, &c., and it is hereby ordained, enacted and declared, &c., that an ordinance, &c., (2 Vict. (2.) cap. 2.) and also a certain other ordinance, &c., (2 Vict. (2.) cap. 3.) and also a certain other ordinance, &c., (2 Vict. (2.) cap. 4.) and also a certain other ordinance, &c., (2 Vict. (2.) cap. 5.) and also a certain other ordinance, &c., (2 Vict. (2.) cap. 6.) be and the same are, and each and every of them is, hereby confirmed to all intents and purposes whatsoever ; and that the said abovementioned ordinances did respectively commence and took effect, on the day and days on which they were respectively passed in the said special council, as certified by the clerk of the said special council, in the same manner, in all respects, as if the great seal of the said Province had been affixed to the said several ordinances, at the times of their being respectively passed by the said special council, and assented to by the Governor.

See Tables.
Certain ordinances confirmed.

An Act for the more ample Publication of certain Acts of the Provincial Parliament. 43 Geo. III. Cap. 4.

WHEREAS it is necessary that more general information should be given of certain laws passed in the provincial parliament :—Be it enacted, &c., that from and after the passing of this Act, each and every rector, curate, vicar, or other priest or minister doing the parochial or clerical duty of any parish or other church in this Province, shall publicly read after divine service in the morning, at the *presbytère*, or other usual place where the legal assemblies of each parish are held, all acts and proclamations or any part thereof, when and so often as he shall be thereunto required by the Governor, Lieutenant-Governor, or person administering the government of this Province, for the time being.

Preamble.
But see Tables.
Rectors, &c., to read publicly at the *presbytère*, all acts and proclamations, when thereunto required.

II. And be it enacted by the authority aforesaid, that copies of the laws passed at each session of the provincial parliament, shall be transmitted by the clerk of the legislative council, to the rector, curate, vicar, or other priest or minister, in each parish within this Province ; which said laws shall be preserved and left to their successors.

Clerk of the legislative council to transmit to the rectors, &c., a copy of the laws.

An Act to repeal a certain Act therein mentioned, and to provide for the more certain and expeditious distribution of the printed Acts of the Legislature of this Province.—(Temporary.) 2 Will. IV. Cap. 33.

MOST GRACIOUS SOVEREIGN,

WHEREAS it is expedient to make more effectual provision for the early circulation of the printed copies of the acts of the legislature, as soon as possible after the close of every session, to the end that the public may have full information of the laws therein : And whereas it is expedient that the act passed in the ninth year of His late Majesty's reign, intituled, *An act to provide for the more certain and expeditious distribution of*

Preamble.
But see tables, as to the present effect of this act.
Act 9 Geo. 4. Cap. 21, repealed.

the printed acts of the legislature of this Province, be repealed, in order that more effectual legislative provisions may be enacted in lieu thereof:— May it therefore, &c., and be it enacted, &c., that the said act, &c. (9 Geo. 4. cap. 21,) shall be and the same is hereby repealed.

Duty of the clerk of the legislative council.

But see Tables.

II. And be it further enacted, &c., that from and after the passing of this act, it shall be the duty of the clerk of the legislative council to transmit the printed copies of the laws passed by the legislature of this Province, with the least possible delay, to such person or persons as shall be appointed by the Governor, Lieutenant-Governor, or person administering the Government of this Province, whose duty it shall be, with all due diligence, to cause to be left in the several parts of this Province, a sufficient number of the said copies, addressed as hereinafter it is provided.

Duty of the secretary of the Province and of the adjutant general.

III. And be it further enacted, &c., that it shall be the duty of the secretary of the Province, or his deputy, annually, within fifteen days after the close of each session of the legislature, to transmit to the clerk of the legislative council, and to the person or persons so appointed, a list of the several justices of the peace for the several districts in this Province; and that it shall be the duty of the adjutant general of militia of the Province, annually, within the like period, to transmit to the clerk of the legislative council, and to the person so appointed, a list of the officers commanding the militia, as well as a list of all the officers under their command, and who are by law entitled to printed copies of the laws, which lists shall specify the several residences of such justices of the peace and officers commanding the militia.

Duty of persons appointed to distribute the laws.

IV. And be it further enacted, &c., that it shall be the duty of the person or persons so appointed as aforesaid, upon receiving from the clerk of the legislative council such printed copies of the said laws, without delay to transmit to the several persons residing in the cities of Quebec, Montreal and Three-Rivers, who are entitled to receive the same, and who are not in the militia, a copy of the laws passed in each session, respectively.

How the laws are to be distributed to the militia officers.

V. And be it further enacted, &c., that the said person or persons shall, without delay, transmit the copies which are to be distributed to the officers of militia in this Province, to the officers commanding the several battalions or divisions thereof, in order that they may by them be distributed to the officers under their command, who are entitled to receive copies of the laws.

Distribution to persons entitled to receive the laws in the country parishes, and not in the militia.

VI. And be it further enacted, &c., that the copies of the laws addressed to persons residing in the country parts who are entitled to receive the same, and do not belong to the militia, shall be left at the parsonage houses of the parishes in which such persons respectively reside.

Duty of officers of militia and church-wardens, after receiving copies of the laws.

VII. And be it further enacted, &c., that it shall be the duty of the officers commanding the militia and of the church-wardens in office, (*mar-guilliers en charge*), in each of the country parishes throughout the Province, on the first Sunday succeeding the day on which such printed copies shall have been received, to cause public notice to be given at the door of the parish church, immediately after Divine service in the forenoon, that such printed copies of the laws have been so received, and that they may be obtained by the several persons having a right to the same.

How copies of the laws shall

VIII. And be it further enacted, &c., that such person or persons shall, without delay, transmit the printed copies intended for distribution in the

townships, to the senior captain of militia in every such township, by whom public notice shall be given at the most public place in every such township, at the time when such place is usually the most frequented, and in the manner the most usual there for giving publicity to notifications of general interest, that such copies have by him been received for distribution according to law, and of the place (which shall be a convenient one for the purpose) at which they remain for delivery to the several officers to whom they are addressed, upon their application, and that upon their being accordingly applied for, they shall, by the respective officers to whom they were addressed be so delivered.

IX. And be it further enacted, &c., that the said person or persons shall transmit without delay, the copies which are to be distributed within the district of Gaspé, in the following manner, that is to say : at New Carlisle, to the clerk of the provincial court of the district of Gaspé ;* at Percé, Bonaventure and at Carlton, to the senior captain of militia of the said places respectively, who shall be bound to give the notice prescribed by the eighth section of this act.

X. And be it further enacted, &c., that there shall, be paid out of any appropriated monies in the hands of the receiver general of this Province, or which may hereafter come into his hands, a sum not exceeding one hundred and fifty pounds, currency, to the persons appointed as aforesaid, for every such distribution of the laws passed in the then last session of the parliament according to the provisions of this act.

XI. And whereas it frequently happens that acts passed by the legislative council and assembly of this Province, are reserved for the signification of His Majesty's pleasure, and that such acts being afterwards sanctioned and published in this Province, it becomes necessary to provide for the distribution thereof :—Be it therefore further enacted, &c., that there shall be allowed and paid to the person so appointed as aforesaid, the sum of ninety pounds, currency, for every such subsequent distribution of the acts so reserved and sanctioned.

XII. And be it further enacted, &c., that the due application of the monies appropriated by this act, shall be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall direct, and that a detailed account of the expenditure of all such monies shall be laid before the several branches of the provincial legislature, within the first fifteen days of the next session thereof.

22. MAITRES DE POSTES.

Ordinance 20 Geo. 3. cap. 4. and act 35 Geo. 3. cap. 7, omitted for the reasons stated in the Tables.

23. MAJORITY, AGE OF.

An Ordinance for altering, fixing and establishing the Age of Majority. 22 Geo. III.
Cap. 1.

WHEREAS many and great inconveniences may arise from the continuance of the law which at present establishes the age of majority

Preamble.

Age of majority to be 21 years. at twenty-five years :—Be it therefore enacted, &c., that from and after the first day of January, which will be in the year of Our Lord one thousand seven hundred and eighty-three, the age of majority shall, to all and every intent and purpose whatsoever, be held, taken and considered, in every part and place wheresoever within this Province, to be at the age of twenty-one years, to be computed from the day of the birth of any person whosoever ; any law, usage or custom to the contrary notwithstanding.

24. MARRIAGES, OPPOSITIONS TO, &c.

6 Will. IV. Cap. 42. An Act to facilitate the proceedings on certain Oppositions to Marriages.

Preamble.

When opposition is made to any marriage, founded on the allegation of promise of marriage, how the party contesting such opposition may proceed.

WHEREAS serious inconveniences daily arise from the delays to which certain oppositions to marriages are now subject, and which frequently occasion considerable injury to the parties interested :—Be it therefore enacted, &c., whenever an opposition shall be made to any marriage, founded on the allegation of a promise of marriage, the party who shall desire to set aside such opposition, may apply either to the court or to one of the judges of the court of King's bench or of the provincial court, of any district or inferior district, and obtain from the same, respectively, either in term or vacation, a rule or order to compel all the opposants to show cause in support of such opposition ; and such court or judge is hereby authorized thereupon to hear the parties, and to decide in a summary manner on such opposition and all matters therewith connected, as well as on the costs incurred thereon.

1 Geo. IV. Cap. 19. An Act to confirm certain Marriages, heretofore solemnized in the Inferior District of Gaspé.

Preamble.

Certain marriages confirmed.

WHEREAS by reason of the remote and peculiar situation of the inferior district of Gaspé, many marriages have been had and solemnized by ministers of the church of Scotland, by persons reputed to be ministers of the church of Scotland, by protestant dissenting ministers, or by any persons reputed to be protestant dissenting ministers, and by justices of the peace, in the said inferior district:—Now for the preventing all doubts and questions concerning the validity of the same, be it therefore enacted, &c., that all marriages heretofore had or solemnized within the said inferior district of Gaspé, by any minister of the church of Scotland, or by any person reputed to be a minister of the church of Scotland, or by any protestant dissenting minister, or by any persons reputed to be protestant dissenting ministers, or by any justices of the peace, shall be adjudged, esteemed and taken to be and have been, from the day of the celebration of such marriages respectively, good and valid in law to all civil effects, and to all intents and purposes whatsoever ; any law, usage or custom to the contrary notwithstanding.

Certain marriages excepted.

II. Provided nevertheless, and be it further enacted, &c., that nothing herein contained, shall be construed or taken to confirm any marriage between persons, who, at the time of the celebration of such marriage could not legally intermarry with each other, nor to confirm any marriage, which shall be celebrated after the passing of this act.

An Act to confirm certain Marriages heretofore solemnized in the District of St. Francis. 5 Geo. IV.
Cap. 25.

WHEREAS many marriages have been had and solemnized, by protestant dissenting ministers, by persons reputed to be protestant dissenting ministers, and by justices of the peace, within the limits of the district of St. Francis; and whereas it is expedient to prevent all doubts and questions concerning the validity of the same:—Be it therefore enacted, &c., that all marriages heretofore had and solemnized within the limits of the district of St. Francis, by any protestant dissenting minister, by any person reputed to be a protestant dissenting minister, or by any justice of the peace, shall be adjudged, esteemed and taken to be, and to have been from the day of the celebration of such marriages respectively, good and valid in law, to all civil effects, and to all intents and purposes whatsoever; any law, usage or custom to the contrary notwithstanding. Preamble.
Certain marriages in the district of St. Francis, confirmed.

II. Provided nevertheless, and be it further enacted, &c., that nothing herein contained, shall be construed or taken to confirm any marriage between persons who, at the time of the celebration of such marriage, could not legally intermarry with each other, nor to confirm any marriage which shall be celebrated after the passing of this act. Certain marriages excepted.

An Act to confirm certain Marriages therein mentioned. 44 Geo. III.
Cap. 11.

WHEREAS since the conquest of this Province by the arms of His Majesty, many marriages have been had and solemnized by ministers of the church of Scotland, by persons reputed to be ministers of the church of Scotland, by protestant dissenting ministers, by persons reputed to be protestant dissenting ministers, and by justices of the peace:—Now for the preventing and avoiding of all doubts and questions touching the same, be it therefore declared and enacted, &c., that all marriages had or solemnized within the limits of this Province since the thirteenth day of September, which was in the year of Our Lord one thousand seven hundred and fifty-nine, by any minister of the church of Scotland, or by any person reputed to be a minister of the church of Scotland, or by any protestant dissenting minister, or by any person reputed to be a protestant dissenting minister, or by any justice of the peace, shall be, and shall be adjudged, esteemed and taken to be and have been, from the day of the celebration of such marriages respectively, good and valid in law to all civil effects, intents and purposes whatsoever; any law, usage or custom to the contrary notwithstanding. Preamble.
All marriages solemnized since the 13th September, 1759, by certain persons, to be good and valid in law.

II. Provided nevertheless, and be it further enacted, &c., that nothing herein contained shall be construed or taken to confirm any marriage between persons who, at the time of the celebration of such marriage, could not legally intermarry with each other, nor to confirm any marriage which shall be celebrated after the passing of this act. Certain marriages excepted.

25. MASTERS, SERVANTS AND APPRENTICES, &c., IN THE COUNTRY PARTS.

6 WILL. IV.
Cap. 27.

An Act for the more easy and less expensive decision of differences between Masters and Mistresses, and their Servants, Apprentices and Labourers, in the country parts of this Province.

Preamble.

Rules and regulations
established.

WHEREAS it is expedient that the justices of the peace residing in the country parishes, extra-parochial places, seigniories or townships in each district of this Province, should be empowered to decide the differences which arise between masters and mistresses and their apprentices, servants and journeymen, in the several country parishes, extra-parochial places, seigniories or townships in this Province, (the parishes of Quebec, Montreal and Three-Rivers excepted,) for the purpose of avoiding the great expenses attendant on the decision of causes of the kind aforesaid in the towns:—Be it therefore enacted, &c., that from and after the passing of this act, the following rules and regulations concerning masters and mistresses, apprentices, servants and journeymen, shall be obeyed and executed in all the country parishes, extra-parochial places, seigniories or townships of this Province, (the parishes of Quebec, Montreal and Three-Rivers excepted,) that is to say:—Firstly: That if any apprentice or servant of either sex, or journeyman, who may be bound by act of indenture or other written contract, for a longer time than one month, or by verbal agreement for one month, or for any shorter or longer period, shall be guilty of ill-behaviour, refractory conduct, idleness, absence without leave, or dissipating his or her master's, mistress's, or employer's effects, or of any unlawful act that may affect the interest, or disturb the domestic arrangements of such master, mistress or such employer,—such apprentice, servant or journeyman, may, upon complaint and due proof thereof, made by such master, mistress or employer, before two justices of the peace at a special sitting, be by such justices sentenced to pay a sum not exceeding two pounds, ten shillings, currency, and in default of payment, to be imprisoned in the common gaol of the district or in the house of correction, for a term not exceeding fifteen days: Secondly: That if any such apprentice, servant or journeyman, bound or engaged as aforesaid, has any just cause of complaint against his or her master, mistress or employer, for any mis-usage, defect of sufficient and wholesome provisions, or for cruelty or other ill-treatment, or other matter of the same kind, such master, mistress or employer may be prosecuted before two justices of the peace, and if the complaint shall appear to be well-founded, such justices of the peace may condemn such master, mistress or employer to pay a penalty not exceeding two pounds, ten shillings, currency: Thirdly: That on complaint made by any master, mistress or employer, against his or her apprentice, servant or journeyman, or by any apprentice, servant or journeyman against his or her master, mistress or employer, of continued mis-usage and repeated violations of the ordinary and established duties of the parties towards each other, any justice of the peace at a special sitting, may on due proof of the fact, annul the agreement or contract, (whether verbal or written,) by which such master, mistress or employer, and such apprentice, servant or journeyman may be bound to each other: Fourthly: That any apprentice, servant or journeyman, who shall absent himself or herself, without leave, or shall altogether desert the service of such master, mistress or employer, shall, upon due proof of the fact, be condemned to make such time good to

his master, mistress or employer ; or in case of default on the part of such apprentice, servant or journeyman so to do, he or she may be apprehended on the warrant of the justice of the peace, and committed to the common gaol of the district, or to the house of correction, for a time not exceeding fifteen days : Fifthly : That if any such apprentice, servant or journeyman shall absent himself or herself, by day or by night, without leave, or shall altogether desert the service of his or her master, mistress or employer, such apprentice, servant or journeyman shall be proceeded against by warrant under the hand and seal of any one justice of the peace : Sixthly : That if any person shall knowingly harbour or conceal any such apprentice, servant or journeyman, engaged as aforesaid, who may have have deserted from the service of his or her master, mistress or employer, such person shall incur and pay a penalty not exceeding two pounds, ten shillings, currency, to be recovered as aforesaid, before any two justices of the peace in special session : Seventhly : That no such master and mistress shall take and carry out of the district in which they reside, any such apprentice or servant, without the consent of such apprentice or servant, (or his or her parents or guardians, if a minor,) except such as may be bound to the sea service : Eighthly : That if any person shall knowingly entice, by any means whatever, any such apprentice, servant or journeyman, so engaged as aforesaid, to depart from the service of his or her master, or mistress, or employer, and that in consequence such apprentice, servant, or journeyman shall depart from such service, any person or persons so offending shall be liable to a penalty not exceeding two pounds, ten shillings, currency, to be recovered as aforesaid, or in default of payment, shall be imprisoned in the common gaol of the district, or in the house of correction, for a time not exceeding one month : Ninthly : That in all verbal agreements between masters, mistresses, or employers, and the servants and journeymen, for any longer period than a month, the party who shall not intend to continue the engagement beyond the term so agreed upon, shall be bound to give the other party fifteen days' notice at least to that effect, otherwise the agreement shall be held to have been continued for one month, from the date of such notice ; the whole under a penalty of two pounds, ten shillings, currency, and in default of payment, of imprisonment in the common gaol of the district, or in the house of correction, during a period not exceeding fifteen days.

II. And be it further enacted, &c., that in case of the non-payment of the penalties aforesaid, with costs, within fifteen days after conviction, it shall be the duty of either of the justices of the peace, before whom such conviction shall have taken place, to issue his warrant, addressed to any constable or bailiff whomsoever, to cause the amount of such penalty and costs to be levied according to law, in the ordinary manner, and (in case of non-payment) by the seizure and sale of the goods and chattels of the defendant ; or it shall be lawful for such justice of the peace to commit such person to gaol or to the house of correction, for a period not exceeding fifteen days ; and such imprisonment shall be in the place and stead of the penalty.

III. And be it further enacted, &c., that all penalties imposed by this act, shall be paid into the hands of the receiver general of this Province, here to be at the disposal of the provincial legislature, and shall be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall be pleased to direct.

Limitation of actions.

IV. And be it further enacted, &c., that every prosecution for any offence against the provisions of this act, shall be commenced within three calendar months after the offence shall have been committed, and not afterwards.

Duty of the senior captain of militia, who is to read and publish this act.

V. And be it further enacted, &c., that it shall be the duty of the senior captain of militia, in each parish, seignior or township, to cause this act to be read and published every year, at the door of the church of the parish, on the first Sunday in the month of May, immediately after Divine service, in the forenoon.

For like matters, in Towns, see 57 Geo. 3. cap. 16. class D. 21. page 159.

MEDICINE, PRACTICE OF.

28 Geo. III.
Cap. 8.

An Act or Ordinance to prevent persons practising Physic and Surgery within the Province of Quebec, or Midwifery in the Towns of Quebec and Montreal, without Licence.

Preamble.

No person to practise without a licence from the Governor.

But see Tables.

WHEREAS many inconveniences have arisen to His Majesty's subjects in this Province, from unskilful persons practising physic and surgery :—Be it enacted, &c., that after the first day of November next, no person whatsoever shall on any pretence sell, vend or distribute medicines by retail, or prescribe for sick persons for gain, or practise physic or surgery within the Province, or practise midwifery in the towns of Quebec and Montreal, or the suburbs thereof, without licence first had and obtained from His Excellency the Governor or the Commander-in-chief of the Province, for the time being, which licence shall not be granted but upon certificate of the person applying for the same having been examined and approved by such persons as the Governor or Commander-in-chief, for the time being, may have appointed for the purpose of examining and inquiring into the knowledge of such persons in physic, or skill in surgery, or pharmacy, or midwifery, a copy of which certificate is to be annexed to the licence, which is to be enregistered in the office of the clerk of the peace of the district where the practitioner resides.

Penalty for practising without such licence.

And every person acting in any of the professions aforesaid without such licence, shall forfeit the sum of twenty pounds for the first offence, fifty pounds for the second, and one hundred pounds and three months' imprisonment for every subsequent offence committed against the true intent and meaning of this ordinance, to be recovered in the court of common pleas of the district where the offence shall have been committed ; a moiety of such forfeitures to be paid to the receiver general of the Province, and applied to the use of His Majesty's government here, to be accounted for by him to His Majesty, His Heirs and Successors, or to the commissioners of His Majesty's treasury, for the time being, and audited by His Majesty's auditor general for the plantations, or his deputy, and the other moiety to be paid to the person or persons who shall sue for the same.

Certain persons excepted.

Provided always, and it is hereby enacted, that nothing in this ordinance shall extend or be construed to extend to the subjecting such persons as shall have taken a degree in any university, or who have been commissioned or warranted as surgeons in His Majesty's army or navy, to any examina-

tion previous to obtaining a licence, but to which licence, to be enregistered as above, a copy of the degree, or certificate of the commission or warrant, shall be annexed; and that no physician or surgeon doing duty in the army or navy within the Province be obliged to have a licence: Provided also, *Proviso.* that nothing in this ordinance shall be construed to prevent retailers or others from selling such drugs for which a Royal patent has been obtained.

27. MILITIA.

An Ordinance for better regulating the Militia of this Province, 27 Geo. III. and rendering it of more general utility towards the preservation and security thereof. *Cap. 2.*

WHEREAS the security of the state is the first principle in every well regulated government:—Be it enacted and ordained, &c. *Preamble. But see Tables.*

ARTICLE I.—That all persons resident within this Province, as well in towns as in the country, from the age of sixteen years to sixty, are hereby declared to be militiamen, and bound to serve in the militia of the parish or township, or seigniorie wherein they reside; and from and after the day of the publication of this ordinance, every person, (excepting such as are hereinafter excepted) refusing to serve, or neglecting, for the space of one calendar month, to get himself enrolled by the captains of militia, who are or hereafter shall be appointed by His Excellency the Captain-general or Commander-in-chief for the time being, within the different parishes, or townships, or seigniories, shall forfeit the sum of five pounds; and for every subsequent refusal he shall forfeit the like sum of five pounds, and suffer one month's imprisonment. *All persons from the age of 16 years to 60, declared to be militiamen. Penalty for non-enrollment. See 29 Geo. 3 c. 4. s. 1.*

II. That all captains of militia shall, within two months after the publication of this ordinance, transmit to the colonel of militia of their district, or in case of his absence to the senior field officer, a roll of the number of officers and militiamen fit for service in their respective companies,—and also a list of infirm persons, of those above the age of sixty years, and of every other person residing within their respective precincts, notwithstanding they may not be liable to serve in the militia,—together with the names of those who shall have declined getting themselves enrolled; and they shall continue to transmit such rolls and lists, stating such changes as may have happened, to their colonel of militia or senior field officer, in the course of the month of March in every year, to be by them reported to His Excellency the Captain-general, or the Commander-in-chief, for the time being. *Captains of militia to send rolls and lists to their colonels.*

III. No militiaman belonging to any of the country parishes, shall absent himself for more than a month, nor change his place of residence, without first giving notice thereof to the captain or other commanding officer of the company he belongs to, declaring to him the place to which he is going, under a penalty of forty shillings. And every person who shall go to settle or to hire himself in another parish, and shall not get enrolled by the captain or other commanding officer there, within the space of eight days, at the latest, after his arrival, mentioning the parish and company of militia to which he previously belonged, shall incur a penalty of ten shillings; and if he neglects getting himself enrolled there, for the space of fifteen days after his arrival, he shall forfeit the sum of thirty shillings and suffer two months' imprisonment. *Penalty on militiamen absenting themselves without giving notice to their captains.*

At what time the companies are to be assembled.

See 29 Geo. 3. c. 4. s. 4.

Penalty for neglect to bring arms, &c.

For neglect to attend.

In certain cases detachments to be embodied and to march.

Either to be commanded or ballotted for.

Forced substitutes.

Penalty for non attend-

IV. The captains or other commanding officers shall assemble their respective companies of militia, on such day in the two first weeks of the months between the last of May and first of September in every year, as shall be directed from the Commander-in-chief, by the colonel or senior field officer of the district, and in case of bad weather on the day appointed, or such other day in the same weeks of those months as the captains shall fix in order to review their arms, make them fire at marks, and instruct them in their exercise. Such militiamen as are already armed, as well as all others who shall hereafter get arms, and will not bring them to such review those who shall be guilty of disobedience there, or who shall leave the place of rendez-vous without being regularly dismissed, shall incur a penalty of five shillings for every offence.

Such militiamen as shall not attend on the days fixed for exercise, (unless they are prevented by sickness, or upon good cause assigned shall have obtained leave of absence from the captain or commanding officer of the company) shall incur a penalty of ten shillings, and for every repetition of the offence he shall forfeit the sum of twenty shillings.

V. Whereas circumstances may render it expedient for the security of the frontiers, that a body of well-disciplined militia should be held in readiness, it is enacted and ordained, &c., that His Excellency the Captain-general or in his absence the Commander-in-chief, may, whenever he shall judge it expedient, draw out and embody detachments from such companies of militia as he, in his discretion, shall think proper, in an equal proportion, to march and be employed, under such officers as he shall appoint, for any space of time not exceeding two years.

VI. Whenever His Excellency the Captain-general, or the Commander-in-chief, shall have issued his orders to embody detachments, in the manner directed by the foregoing article, and shall have approved the distribution made by the field officer charged with that duty, the captains of militia in obedience to the orders they may receive, shall forthwith assemble the companies, and make out a roll of the unmarried men, from the age of eighteen years to forty-five, being able-bodied, healthy, and fit for the service destined for them; and from such roll, the captain or senior officer shall command, or ballot for, if the Captain-general or Commander-in-chief should judge fit so to direct, the number required to be furnished from his company; and the men so commanded or ballotted for, shall have four days to prepare themselves, at the expiration of which time they shall present themselves at the house of the captain or other commanding officer of the company, who shall cause them to be conducted to the place of rendez-vous specified in the said orders: And if any militiaman thus commanded or ballotted, refuses to obey, or conceals himself, in such case the captain or senior officer shall command the next upon the roll, or ballot for a person for the service, and so on, until the number fixed for that company is completed. If upon this occasion, or even upon any other occurrence, it should happen that there be not a sufficient number of unmarried men in a company to furnish the quota required, in that case the married men under the age of forty shall be commanded on the detachment or ballotted for the purpose, and be obliged to march, in the same manner as is above directed to be done by unmarried men.

And whereas the safety of the Province depends much upon the observance of this article, it is further enacted and ordained, &c., that all

militiamen, commanded for detachments, or ballotted for that purpose, who shall not present themselves at the place of rendezvous fixed by the order, ^{ance or deser-} or shall desert, either before or after being assembled, shall be liable to be apprehended by any order of the captains or other commanding officers of the parishes to which they may have absconded, who are hereby authorized and enjoined to cause such militiamen to be apprehended and brought before the colonel of militia or senior field officer, nearest at hand, who, jointly with any two field officers, is, and are hereby likewise authorized to hear and examine them, and if they shall find them guilty, to condemn such militiamen respectively to pay a fine of ten pounds, and be imprisoned for one month. And after the expiration of such imprisonment, they shall be oblig- ^{Penalty.} ed to take the place of those serving in their stead, who shall then be discharged, and exempted from such command or balloting, until all the militiamen of the company shall have taken their turn of duty.

All those who shall have been fined and imprisoned, and who shall refuse ^{Penalty.} to take up the place of those who marched for them, or who shall repeat their desertion, shall incur a penalty of twenty pounds and three months' imprisonment, by sentence of the colonel and two field officers of the district, as ^{abscond.}

VII. It shall and may be lawful for any militiaman commanded or ballotted for a detachment, to put another man in his place, upon condition ^{Militiamen may serve by voluntary substitutes.} that he himself presents his substitute, personally, to the colonel of militia of the district, who shall give him a written discharge, provided he approves of the substitute offered, as being capable for the service required: in which case, it shall be considered that the militiaman has taken his turn of duty; but the substitute shall not, after the time of service is over, be exempted from being commanded or ballotted for again, in his own turn, equally with the rest of his company.

VIII. All militiamen who shall decline doing the duties required of them ^{Penalty for disobedience when upon duty.} when serving in detachments, or shall disobey their officers while they are under their command, shall be summoned before the field officers of the detachment, who are hereby authorized to hear and adjudge the offender such punishment as the circumstances of the case may require, not extending to corporal punishment beyond imprisonment for one month.

IX. The captains and other officers of militia are hereby authorized and ^{Deserters and others, how to be apprehended.} required to apprehend all deserters, whether soldiers, militiamen, or seamen, all disorderly persons, vagabonds and persons sowing dissension or disturbing the public tranquillity: and whoever shall harbour or lodge any persons of the above description, without giving immediate notice to the captain or some other officer of the company, shall for the first offence incur penalty of five pounds, and suffer one month's imprisonment,—and in case of a repetition thereof, double the penalty, and double the time of imprisonment. For the future, all deserters who shall have been apprehended, as well as all disorderly persons, vagabonds and others of the above description, shall be brought from captain to captain, under the charge of an officer or serjeant, and a sufficient number of militiamen, who shall be ordered upon that duty by the respective captains or commanding officers, before the colonel of militia or other field officer nearest at hand, who shall deal with such offender as the law directs. The militiamen commanded for that duty, who are always to be married men, shall march with their firelocks and with at least four rounds of ammunition, and those who shall disobey or

suffer any prisoner committed to their charge to escape through negligence, shall incur a penalty of twenty shillings ; and if it shall be proved that the escape happened through design, they shall, besides incurring a penalty of five pounds, suffer imprisonment for one month.

Roll to be kept
of militiamen
upon service.

X. The captains of militia shall keep a roll of the names of all those who may be employed upon any service, and shall give the officer or serjeant conducting the detachment, a duplicate of it, to which shall be added the names of those who may have missed their turn, and explaining therein the cause of it, whether on account of absence, sickness, or for any and what other reason. And as one of the surest means for preventing abuses, the field officers who are charged with any particular duties, shall keep a registry book, in which shall be inserted the names and surnames of every militiaman employed in the detachment, and the parishes to which they belong.

Officers of
militia misbe-
having to be
broke.

All captains and other officers of militia who shall be convicted before the colonel and any two field officers of having acted with partiality, by exempting any persons without being authorized so to do, or of having mis-used their authority from pique or resentment, shall incur a penalty of five pounds, their commissions shall be annulled, and they shall be constrained to served as common militiamen.

Lands of mili-
tiamen out
upon duty to
be cultivated.

XI. Whereas it may happen among the number of militiamen serving on detachments, that some of them may have lands in cultivation which might suffer in their absence ; it is therefore ordained and enacted, &c., that the captains or commanding officers of parishes, when such cases happen, are hereby authorized to command and order all persons settled within their precincts, to do or cause to be done by *corvée*, under the direction of an officer or serjeant, the husbandry of such militiamen who are absent upon detachments, that is to say, to plough and sow their arable land, make and uphold their fences and ditches, house their crop of hay and corn, and to keep in a tenantable condition their buildings. And if it should happen that any of the said militiamen employed on detachments should have left their families without one person in each house, capable of doing the ordinary household business, the parishes shall in like manner be obliged to provide for them, as is before directed for the tillage of their land. And whosoever shall neglect or refuse to act and to obey, in those services, or to find a man in his place who is capable of doing the work assigned, shall incur a penalty of twenty shillings for every neglect or refusal.

Penalty on
officers neg-
lecting this.

The captains or other officers commanding companies, who shall be convicted of having neglected to cause the different business of such militiamen to be done with due precaution, and at a proper season, shall incur a penalty of fifty shillings and be deprived of their commissions.

Mode of pro-
secution.

XII. In all cases where the mode of prosecution for the fines and penalties inflicted by this ordinance has not been particularly directed, it is hereby declared, that wherever a fine or penalty imposed shall not exceed the sum of forty shillings, any one field officer of the militia of the district where the offence shall have been committed, and where it shall exceed that sum, and the offender be liable to be imprisoned, or that the breach of an officer is in question, the colonel with two field officers, or any two field officers of the district where the offence shall have been committed, is, and are hereby authorized, upon an information brought before him or them, to take cognizance of, and summarily to hear all offences done

But see 29
Geo. 3. c. 4. s. 3.

contravention of this ordinance, and to inflict the penalties thereof,—to be recovered by warrant under his or their hands and seals, and to render the monies so to be levied into the hands of the colonel of the district, who is to be accountable for the same. Subject nevertheless, in cases where the penalties shall amount to or exceed ten pounds, and where there shall be a condemnation to more than one month's imprisonment, or the breaking of an officer, to an appeal before the Captain-general, or in his absence to the Commander-in-chief, who is hereby authorized to hear and determine the same definitively.

XIII. The colonels of militia, as well as the field officers of the different districts, shall always have an open register, containing therein the names of those who shall have been fined and punished, naming the parish to which they belong, mentioning the dates, and the sums which they shall have paid, the space of time they shall have been kept in prison, the causes for which they shall have been condemned, and at whose instance ; together with the names of the field officers who shall have been present on each occasion. An open register to be kept.

IV. The members of His Majesty's council, the judges, the commissioners or justices of the peace, the seigniors who are *seigneurs primitifs*, the noblesse, officers on half pay, the religious communities, and the clergy in general, are exempted from serving in the militia, and may each of them have one man servant who shall likewise be exempted ; clerks of courts, advocates, attorneys, notaries, physicians, surgeons and apothecaries duly authorized to act as such, custom-house officers, the students of the seminary or college at Quebec and Montreal, school-masters duly authorized, one master of a post-house, and one assistant to him in each parish, are also exempted from serving in the militia. Millers and one beadle in each parish are likewise exempted from the same services. Captains of militia, the masters of the congregation and millers, shall have one man servant, and masters of post-houses shall have two men servants exempted. Captains of militia who have honourably retired from the service shall, with one man servant, be exempted from serving in the militia, and the widows of captains of militia, during their widowhood shall enjoy the same privileges,—likewise all others whom the Captain-general or Commander-in-chief shall specially exempt, under his hand and seal, together with all such persons are under or above the age prescribed in this ordinance,—the settlement of which question, as well as of every other relative to the age of persons mentioned herein, is hereby left to the captain of the company in the parish to which he belongs. Persons exempted from serving in the militia.

XV. And be it further enacted, &c., that the several fines and forfeitures here-mentioned, which are hereby granted and reserved to His Majesty, his Heirs and Successors, for the public uses of this Province, and the support of the government thereof, may be applied in the whole, or a proportion thereof, in such manner as the Governor or Commander-in-chief of the Province, for the time being, shall conceive to be most conducive to the services by this ordinance intended to be promoted and executed : And at the same, and the expenditures thereof shall be accounted for to His Majesty, His Heirs and Successors, or to the commissioners of His Majesty's treasury for the time being, and audited by His Majesty's auditor general of the plantations, or his deputy. Application of the fines.

29 Geo. III. **An Act or Ordinance to explain and amend an Act, intituled,**
 Cap. 4. *An Act or Ordinance for better regulating the Militia of this Province, and rendering it of more general utility towards the preservation and security thereof.*

Preamble.

Certain offenders may be committed, if their fine be not paid.

Court of field officers may reduce fines.

Of whom courts shall consist.

Reviews.

Abusive words on quarrelling.

Serjeants in towns.

Governor may make further regulations.

Proviso.

Fines may be lessened by the Governor in such regulations.

Costs.

Proviso.

WHEREAS the experience of two years hath shewn the expediency of making some amendments and additions to the ordinance passed, &c. (27 Geo. 3. cap. 2) :—Be it enacted, &c., that whenever any person shall be convicted of the first offence mentioned in the first article of the above recited ordinance, and shall not have paid the fine of five pounds, within forty-eight hours after such conviction, it shall be lawful for the field officers who tried the offence to commit the offender to prison, provided such imprisonment shall not exceed the term of one month.

II. Whereas inconveniencies have arisen from the court of field officers not being authorized to diminish the fines and penalties imposed by the subsequent articles of the said ordinance :—Be it enacted, &c., that the said courts of field officers shall have full power to reduce and diminish the said penalties and fines according to the circumstances of the case, and their discretion.

III. And be it further enacted, &c. that when the fine shall exceed ten shillings, the court of field officers shall consist of the colonel, lieutenant-colonel and major, and in case of the absence of any of them, of the officers next in rank.

IV. And in order to explain in a clearer manner the times of review fixed by the said ordinance, as well as to anticipate the particular circumstances that may require them :—Be it enacted, &c., that the militia shall assemble and be reviewed one day in every month, from the first day of May to the thirtieth of September, and at such other times as the Commander-in-chief shall think necessary.

V. Be it further enacted, that whoever shall quarrel or insult by abusive words, or otherwise, an officer or serjeant, being in the execution of his office, shall suffer punishment according to the nature of the offence, by sentence of the board of field officers, not exceeding however a fine of four shillings and fifteen days' imprisonment.

VI. Be it also enacted, that the serjeants of the towns, suburbs, and precincts, shall not be compelled to serve in the offices of jurors or constables, as long as they continue to be serjeants.

VII. Be it also enacted, &c., that it shall be lawful for the Governor or Commander-in-chief, for the time being, to make from time to time, and issue under his hand, such regulations as he shall think necessary for the better discipline of the militia: Provided nevertheless, that the offenders against such regulations shall not be liable to a higher fine than that of four shillings, and to an imprisonment of more than eight days.

VIII. And be it also enacted, &c., that in the regulations so to be issued for the better discipline of the militia, either of the fines and penalties in the said act mentioned, may be lessened as the Governor or Commander-in-chief for the time being, shall, in his discretion, be pleased to order in manner aforesaid; and that in all levies of the same by warrant of distress or otherwise, the cost and charges attending the levy, shall be also recoverable: Provided always that such costs do not altogether exceed the sum

of five shillings, with a mileage fee in addition thereto of one shilling for every league in the services, to be computed from the place of the receipt of the warrant to the place of the execution thereof, and in that proportion for a smaller distance.

28. MILITIAMEN, PENSIONS TO.

An Act to grant an annuity to such Militiamen as were wound- 55 Geo. III.
ed during the late War with the United States of America, ^{Cap. 10.}
and to apply a sum of money therein mentioned, to aid and
assist His Majesty in defraying the expenses of the Militia
incurred during the said war, and also to indemnify certain
officers of Militia and the families of such Militiamen as were
killed in the said War.

MOST GRACIOUS SOVEREIGN,

WHEREAS Your Majesty's dutiful and loyal subjects, the commons ^{Preamble.}
of Lower Canada, have taken into their serious consideration, the
expenses incurred by Your Majesty for militia service, during the late war
with the United States of America, and that it is just to indemnify the officers
of militia who served during the said war, for the losses sustained by them
in consequence of the unforeseen disbanding of the embodied militia, and to
indemnify the militiamen who were wounded, and the families of those who
were killed during the said war :—May it therefore please Your Majesty, ^{Non-commissioned officers, militiamen and Canadian Voltigeurs, who have been wounded or maimed during the late war with the United States of America, entitled to receive an annuity over and above the annuity granted by the act of 43 Geo. 3. cap. 1.}
&c., and be it enacted, &c., that from and after the passing of this act, every
non-commissioned officer, militiaman or Canadian Voltigeur, who, during the
late war with the United States of America, was so wounded or maimed as
to be thereby rendered incapable of earning a livelihood, shall have an an-
nuity of six pounds, currency, over and above the annuity of nine pounds,
currency, allowed under the act passed in the forty-third year of His Majesty's
reign, intituled, *An act for the better regulation of the militia of this*
Province, and for repealing certain acts and ordinances therein men-
tioned, (1) which annuities shall be paid out of the unappropriated funds at
the disposition of the legislature, and shall be paid to every such militiaman
in half-yearly payments, that is to say, on the first days of the months of
May and November in each and every year, by the adjutant general of the
militia, who, upon the first days of the months of April and October in each
and every year, shall make an estimate of the sum which will be necessary
for the paying of the said annuities, and upon such estimate the sum required
for paying, during the month following, the annuities due for the preceding
half year, shall be paid into the hands of the said adjutant general of the
militia, by warrant or warrants under the hand and seal of the Governor,
Lieutenant-Governor, or person administering the government of the Pro-
vince, for the time being, directed to the receiver general of this Province.

(1) *That part of the 43 G. 3. c. 1. here referred to, is as follows :—*
“XXXI. And also that every non-commissioned officer or private of militia,
“who, in any engagement with an enemy, shall be wounded or disabled, so
“as to be rendered incapable of earning his livelihood, shall be allowed an
“annuity of nine pounds, same currency, during the time he shall continue
“under such incapacity.”

II. & III. *Omitted.*—*They authorized the Governor to give a gratuity of eighty days pay to officers of the militia and Canadian Voltigeurs, on the account of the sudden disbanding of the corps, and an indemnification (not a pension) of not less than £25, nor more than £100, to the widows, children, father or mother, of officers and militiamen killed during the war,—and to appoint commissioners for ascertaining the persons entitled to such indemnification. Their object is probably accomplished.*

The application of the monies agreeably to the directions of this act, to be accounted for to the Crown.

IV. And be it further enacted &c., that the due application of the said monies agreeably to the directions of this act, shall be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury for the time being, in such manner and form, as His Majesty, His Heirs and Successors shall direct.

29. MUTUAL INSURANCE COMPANIES.

4 Will. IV. An Act to authorize the establishment of Mutual Fire Insurance
Cap. 33. Companies.—(*Temporary.*)

Preamble.

Ten freeholders in any county authorized to call a meeting of the freeholders thereof, to consider whether it be expedient to establish therein a mutual fire insurance company.

See Tables.
Such meeting how to be called.

WHEREAS divers loyal subjects of His Majesty, being inhabitants of this Province, have by their petition represented the great advantages that would arise from the introduction into this Province of the principle of mutual insurance against losses by fire, and have prayed the interference of the legislature to enable them to bring the said principle into effective operation :—And whereas it hath been made apparent that the said representation is well founded and that it is expedient that the prayer of the petitioners be granted :—Be it therefore enacted, &c., that it shall at any time be lawful for any ten freeholders in any county in this Province, to call a meeting of the freeholders of the county (and of any one, or of any two, adjoining counties, if they shall think it necessary) for the purpose of considering whether it be expedient to establish in such county or counties a fire insurance company on the principle of mutual insurance : Provided always, that such meeting shall be called by an advertisement mentioning the time, place and object of such meeting, and published and posted on the door of the church of each parish, seigniorship or township within such county or counties, on one Sunday or holiday immediately after Divine service in the forenoon, and inserted during three weeks immediately preceding the meeting, in some public newspaper published in the district or inferior district in which the meeting is to be holden, if any is published therein.

Proceedings at such meeting, and consequent upon it.

II. And be it further enacted, &c., that if at such meeting there shall not be fewer than forty freeholders present, and a majority of them shall determine that it is expedient to establish such company, they may elect three persons from among the freeholders of the county or counties to open and keep a book, in which all freeholders in the county or counties may sign their names, and enter the sums for which they shall be respectively bound to effect insurance with the company.

Whenever there shall be sixty subscribers, and the subscriptions

III. And be it further enacted, &c., that whenever the number of persons duly qualified who shall have signed their names in the said subscription book, shall be sixty or more, and the sums for which they shall be bound themselves to effect insurance shall together amount to fifteen thou-

and pounds, currency, or upwards, such persons, and all other persons who may thereafter become members of the said company, by effecting insurances therein in the manner hereinafter provided, shall be and they are hereby constituted a body politic and corporate by the name of *The mutual fire insurance company*, and their legal addition shall be, *of the county* (or *counties*;) by name, for which the company shall have been established; and by that name may mutually insure their respective dwelling houses, shops, stores and other buildings, household furniture and merchandize, against loss or damage by fire, whether the same shall happen by accident, lightning, or by any other means, excepting that of design in the insured, or by the invasion of an enemy, or by an insurrection, and may by that name sue and be sued, appear, prosecute and defend in any court of competent jurisdiction, purchase and hold personal estate, and may hold real estate, to the annual value of one hundred pounds, currency, and no more, and may sell and convey the same at their pleasure; and may make and execute such bye-laws, not contrary to the provisions of this act or to the laws of this Province, as they shall deem expedient; and may do and execute all such acts and things as may be necessary for carrying this act into effect.

amount to £15000, such subscribers shall become a body corporate, and may mutually insure their property against loss by fire, &c.

Powers of such corporations.

See Tables.

IV. Provided always, and be it further enacted, &c., that there shall not be more than one such company in any county; and that whenever any such company shall be established in and for any county, or any two, or any three counties, no other such company shall be established in and for the same or any of them, but the company so first established shall alone have the right of insuring property lying within such county or counties, under the authority of this act; but nothing herein contained shall be construed to prevent any person from causing any such property to be insured by any person or company by whom it may lawfully have been insured, if this act had not been passed: And provided further, that nothing herein contained shall prevent any such company, after it shall have been lawfully incorporated under the provisions of the foregoing section, from insuring any property, moveable or immovable, lying within the county or counties for which it is established, although the owner of such property be not a freeholder in such county or counties; nor to prevent any person so insured from becoming a member of the company.

There shall not be more than one company in any county.

Proviso.

Such company may insure any property within the county, although the owner be not a freeholder therein.

V. And be it further enacted, &c., that each and every person who shall at any time become interested in such company by insuring therein, shall be a member thereof, for and during the time specified in his or her respective policies, and no longer, and shall during such time be included and bound by the provisions of this act.

Every person interested in such company to be a member.

VI. And be it further enacted, &c., that any ten members of the corporation so formed may call the first meeting of the same, by notice given in the manner prescribed with regard to the preliminary meeting; and at such meeting the said corporation may elect, by a majority of votes of the members present, a board of directors consisting of not more than nine, nor less than five members of the corporation; and that a like meeting shall be held on the first Monday in October in each and every year, and that at every such meeting a board of directors shall be elected in the manner aforesaid: Provided always, that all vacancies which shall happen in the said board in the interval between any two such meetings, shall be filled by any person or persons elected for that purpose by a majority of the remaining members of the board, which shall not be competent to act as such up-

Ten members of said corporation may call the first meeting of the same, to elect a board of directors.

A meeting to be held every year for the same purpose.

See Tables. Vacancies how to be filled up.

Proviso. until such vacancy or vacancies shall have been filled : Provided always, that it shall be lawful, at any time within the year, for any ten members of the corporation as aforesaid, to call in the same manner a general meeting of the same, by giving at least fifteen days notice.

Duty of the board of directors. VII. And be it further enacted, &c., that the board of directors shall superintend the concerns of the company, and shall have the management of the funds and property thereof, and of all matters and things thereunto relating, not otherwise provided for by the corporation ; and may from time to time elect one of their members to be president ; and may appoint a secretary and treasurer, and such other officers, agents and assistants as they shall think necessary, and prescribe their duties, fix their compensation, take security from them for the faithful performance of their duties, and remove them at pleasure ; and may determine the rates of insurance, the sum to be insured on any building or other property, and the sum to be deposited on the insurance thereof, and shall order and direct the making and issuing of all policies of insurance, the providing of books, stationery and other things needful for the office of the company, and for carrying on the business thereof ; and may order the treasurer to pay the amount of any loss which may have happened to the company and any expenses incurred in transacting the affairs thereof ; and may hold special meetings as often as they shall deem necessary, and shall keep a record of their proceedings ; and any director disagreeing with the majority of the board may enter his dissent on the books of the company, with his reasons for so dissenting, which book shall at all times be open to the inspection of the members of the corporation.

Every member before receiving his policy to deposit his promissory note for not more than ten per cent upon the sum insured, &c. VIII. And be it further enacted, &c., that every member of the said company shall, before he receives his policy, deposit his promissory note payable on demand to the order of the corporation only, for such sum of money, not exceeding ten per cent upon the sum insured, as shall be determined by the directors ; a part of which note not exceeding five per cent. shall be immediately paid for the purpose of raising a fund to defray the incidental expenses of the company, and the remainder of the sum mentioned in such note shall be payable, in part or the whole, at any time when the directors shall deem the same to be necessary for the payment of the losses or expenses of the company ; and at the expiration of the term of the policy, the said note, or such part thereof as shall remain unpaid, and uncalled for, after all losses and expenses incurred by the company during such term shall have been paid, shall be given up to the signer thereof.

See Tables.

Every member to pay his proportion of all losses and expenses incurred by the company. IX. And be it further enacted, &c., that every member of the company shall pay his proportion of all losses and expenses incurred by the said company ; and all real property belonging to the insured at the time of the date of the policy, or during the continuance thereof, shall be mortgaged and hypothecated to the company, from the date of the policy, for the amount of the promissory note given to the directors by the party insured under its act,—provided that the company shall cause the policy to be enregistered at the registry office of the county in which such property shall lie, if any such office there be, or otherwise in the office of the notary nearest to the said premises.

Proviso.

See Tables.

When property insured shall have been burned, notice to X. And be it further enacted, &c., that whenever any property insured by the company, shall have been destroyed or damaged by any fire, the proprietor thereof shall, within twenty days after such fire, cause a notice

thereof, in writing, to be delivered at the office of the secretary of the company, and that such notice shall set forth the sum claimed by such proprietor, as the amount of the loss sustained in consequence of such fire, and shall also contain the name of some freeholder of the county in which such fire shall have happened, who shall be the *expert* named by the claimant, in case the amount to be paid by the company to such claimant shall be afterwards estimated by *experts*, in the manner provided by this act.

XI. And be it further enacted, &c., that the directors of such company shall, within five days after the delivery of such notice, answer the same in writing, and shall cause such answer to be delivered at the domicile of the claimant, or to the said claimant in person, and shall state whether the directors do or do not agree to pay the sum demanded in the notice given by the claimant; and if they do not so agree, such answer shall mention the sum which the directors are willing to pay to the claimant as the amount of such loss, and shall also contain the name of a freeholder of the county, in which such fire shall have happened, who shall be the *expert* appointed by the company, in case the amount to be paid by the company to such claimant shall be estimated by *experts* as aforesaid.

XII. And be it further enacted, &c., that if the sum offered by the directors in their answer be not agreed to by the claimant, the two *experts*, so appointed as aforesaid, shall appoint a third *expert* to act jointly with them; and the three *experts* shall give notice to the directors and to the claimant, of the time and place, when and where they intend to proceed to estimate the sum to be paid as aforesaid, and shall, by such notice, require the directors or the claimant then and there to produce such documents or parole testimony, as they may respectively wish to offer for the consideration of the *experts*.

XIII. And be it further enacted, &c., that such *experts* shall not proceed to make such estimate, until they shall have been sworn by some justice of the peace, (and any justice of the peace is hereby authorized and required to administer the necessary oaths,) faithfully and impartially to perform their duty as such *experts*.

XIV. And be it further enacted, &c., that the said *experts*, when so sworn, may, at the time and place appointed as aforesaid, proceed to examine the documentary evidence and the witnesses then and there adduced, and may, if they shall think it necessary, or if required by either party, examine the claimant or the directors, or any of them, upon interrogatories upon *faits et articles*, to be duly exhibited to the said *experts*; and a true copy thereof served upon the party to be examined; but they shall not so examine any person who shall not be previously sworn before the said *experts* (who are hereby authorized to administer the necessary oaths) to declare the truth, the whole truth, and nothing but the truth, in the answers to be given to the questions put to them by the said *experts*; and if any person shall wilfully state what is untrue, knowing it to be so, in any such answer, such person shall be guilty of wilful and corrupt perjury, and on being thereof legally convicted, shall incur the pains and penalties attached to that offence.

XV. And be it further enacted, &c., that the award agreed upon by the said *experts*, (or by any two of them, in case of difference of opinion,) shall be drawn up in writing and signed by the *experts* agreeing to the same, who shall cause copies thereof, signed by them, to be delivered at the domicile of the claimant and at the office of the secretary of the company.

Cases in which the claimant shall have an action against the company, and the plaintiff or defendant shall have full costs of suit.

XVI. Provided always, and be it further enacted, &c., that if, within the delay hereinbefore appointed, the directors shall deliver no answer to the notice given by the claimant, or shall, in their answer to the same, offer to pay no sum to the claimant, or if such offer shall not be accepted by the claimant, or if such answer shall not contain the name of a person to be an *expert*, or if no award shall be given by the *experts* appointed, within thirty days from the time due notice shall have been given by the claimant to the directors, or if either party shall be dissatisfied with the award made by the *experts*, or if the directors shall refuse or neglect to pay the sum thereby awarded to the claimant,—such claimant shall have an action against the company in any court of competent jurisdiction, and either party to such action may demand and obtain a trial by jury; and if the verdict given by the jury shall be for a greater sum than that offered by the directors in their answer to the notice of the claimant, or (if there shall have been an award of *experts*) if such verdict shall be for a greater sum than that awarded, or if the sum so awarded shall not have been legally tendered to the claimant before the action was commenced, the plaintiff shall have full costs of suit, otherwise full costs of suit shall be given to the defendant.

Whenever any loss by fire, sustained by any member, is ascertained, &c., directors to settle in what proportion the same is to be paid by each member.

Any member neglecting to pay his portion may be sued for the amount.

XVII. And be it enacted, &c., that whenever any loss or damage by fire, sustained by any member, is ascertained and is payable by the company, the directors shall settle and determine the sums to be paid by the several members as their respective portions of such loss, and publish the same in such manner as shall be provided by the bye-laws of the company; and the sum to be paid by each member shall always be in proportion to the original amount of his deposit note or notes, and shall be paid to the treasurer within thirty days next after the publication of such notice; and if any member shall, for the space of thirty days after such notice, neglect or refuse to pay the sum so determined by the directors, the directors may sue for and recover from such member the amount of his or her deposit note, and costs of suit, and the amount recovered shall remain in the hands of the treasurer of the company, subject to the payment of that portion of all losses and expenses to which such member shall be liable; and the balance, if any, shall be returned to such member at the expiration of the term of his or her policy.

See Tables.

When the deposit notes shall be insufficient to pay the loss, the sufferers shall receive a proportionate dividend of the same. Provide.

XVIII. And be it further enacted, &c., that if the amount of all the deposit notes shall be insufficient to pay the losses occasioned to two or more sufferers by any one fire, or by two or more fires at the same time, the sufferers shall receive a proportionate dividend of the whole amount of the said notes, according to the sums for which they shall have been respectively insured: Provided always, that the sufferers shall have precedence in their claims, according to the date of their respective losses; but all losses by any one and the same fire shall have no precedence the one over the other.

Form in which the company shall insure. Cases in which the policy shall not be binding on the company.

XIX. And be it further enacted, &c., that the said company may insure by the same policy, and at one time, for any term not exceeding five years; and any policy of insurance issued by the company, and signed by the president, and countersigned by the secretary, and in the form in the appendix A. of this act, shall be valid and binding on the company, in all cases where the insured party shall have, at the time the damage shall occur, the title or estate described by him or her at the time of effecting the insurance, to the land on which any property damaged by fire is situate; but if the insured shall have a less title or estate in such property, or if the same shall be encumbered otherwise than described as aforesaid, the policy shall be void; and

every such description of any title or estate or incumbrances, shall be written on the back of the policy, and signed by the president and secretary of the company.

XX. And be it further enacted, &c., that no allowance shall be made to any member for any gilding, historical or landscape painting, or carved work, account books, papers, money or jewels, destroyed or damaged by fire.

Articles on which no allowance shall be made.

XXI. And be it further enacted, &c., that when any property insured shall be alienated by sale or otherwise, the policy thereon shall be void, and shall be surrendered to the directors to be cancelled, and upon such surrender, the member making it shall receive the note deposited at the time it was issued, upon paying his portion of all losses and expenses that have occurred before surrender: Provided always, that the grantee or alienee, having the policy assigned to him, may have the same ratified and confirmed to him for his proper use and benefit, upon application to the directors, and with their consent, within thirty days after such alienation, on giving his note, payable on demand, to the directors for so much of the sum for which the promissory note of the alienor was given, as shall then remain unpaid; and by such ratification such alienee shall become entitled to all the rights and privileges, and subject to all the liabilities to which the alienee* was subject.

When any property insured shall be afterwards alienated without notice, the policy thereon to be void, &c. Proviso.

Alienee may have the policy confirmed.

* Sic. But it should be alienor. See French.

XXII. And be it further enacted, &c., that if any alteration shall be made in any house or building by the proprietor thereof, after he shall have effected insurance thereon with the company, whereby it may be exposed to greater risk and hazard from fire than at the time the policy was made, such policy shall be void, unless an additional premium and deposit, after such alteration, be agreed upon and paid by the party insured to the directors; but no alteration or repair to any building, not increasing such risk or hazard, shall in any wise affect the policy.

If alterations be made in any house, &c., after being insured, whereby it may be exposed to greater risk, policy to be void. Exception.

XXIII. And be it further enacted, &c., that if any insurance on any house or building shall be made with the company, and with any other insurance company or office or person, at the same time, the policy issued by the company shall be void, unless such double insurance shall have been agreed to by the directors, and their consent to the same signified by an indorsement on the policy, signed by the president and secretary; and generally, all the laws of this Province concerning insurance against fire, and not contrary to this act, shall extend to and affect all insurances made by the company.

Policies issued by any company to be void, in cases of double insurance not agreed to by the directors.

XXIV. And be it further enacted, &c., that nothing herein contained shall affect the rights of His Majesty, His Heirs and Successors, or of any person or persons, body politic or corporate, such only excepted as are mentioned in this act.

Saving of the rights of the Crown, and of others.

SCHEDULE A.

" No.

" This policy witnesseth, that A. B., of the County of
" in the Province of Lower Canada, hath become (or being) a member of
" *The Mutual Fire Insurance Company*, of (and) hath effected
" insurance, with the said company, for the sum of currency, on
" the following property: (*Description, place in which situate, &c.*) for
" the term of years, from the date hereof; and the same A. B., hath
" deposited in the hands of the directors of the said company, his note
" payable to their order on demand, for the sum of currency, of which
" sum he hath paid to the said directors the sum of being at the

" rate of per cent. thereon ; and that by reason of the premises the
 " said A. B. hath become entitled to all the advantages and subject to all the
 " liabilities, to which persons insured by this company are entitled and sub-
 " ject, under the laws of this Province.

" In witness whereof the said A. B., and the president of the said com-
 " pany, have signed this policy in duplicate, and the secretary hath counter-
 " signed the same, at in the county of in the Province of Lower
 " Canada, this day of one thousand

" A. B. C. D. President.

" E. F., Secretary."

6 Will. IV. An Act to continue for a limited time, and to amend a certain
 Cap. 33. Act therein mentioned, relative to the establishment of Mutual
 Fire Assurance Companies.—(*Temporary.*)

Preamble.

See Tables.

The provisions
 of 4 W. 4.
 cap. 33. repeal-
 ed where
 repugnant to
 this act.

WHEREAS it is expedient to amend the act which authorizes the
 establishment of mutual fire insurance companies, and to extend the
 duration thereof :—Be it therefore enacted, &c., that from and after the
 passing of this act, each and all of the provisions of the act passed, &c.,
 (4 Will. 4. cap. 33.) contrary to the provisions of this act, shall be and the
 same are hereby repealed.

Companies
 may hold im-
 movable prop-
 erty.

II. And be it further enacted, &c., that the companies formed, and to be
 formed, under the authority of the said act, may hold immoveable property
 to the yearly value of five hundred pounds, and no more.

Companies
 may be formed
 in counties, not
 exceeding five.

III. And be it further enacted, &c., that the said companies may be formed
 for any number of counties, not exceeding five, and may enjoy, within the
 same, the rights and privileges granted by the said act, within the extent of
 one, two and three counties.

At the annual
 meetings to be
 holden under
 this act, a new
 board of direc-
 tors how to be
 chosen.

IV. And be it further enacted, &c., that at the annual meetings to be
 holden under the said act, on the first Monday in October in each year, for
 the election of a new board of directors, the proceedings shall be commenced
 by striking off from the board of former directors, a number equal to the
 majority of the members of the said board, and that those who shall remain
 after this operation, shall be members of the board for the year following,
 and proceedings shall then be taken to complete the number required for the
 formation of the said board : Provided always, that the foregoing provisions
 shall not be understood to extend to prevent the election of any number of
 members of such former board, as members of the new one.

Proviso.

Promissory
 notes required
 by the eighth
 section of the
 said act, how
 to be endorsed.
 Proviso.

V. And be it further enacted, &c., that the promissory note which the
 eighth section of the said act requires to be deposited, before any policy be
 delivered, must be indorsed to the satisfaction of the directors of the com-
 pany, and shall be for a sum of money proportioned according to the class-
 ification of risks, which shall be established by the said directors : Provided
 always, that the said promissory note may exceed ten per cent, if so regulated
 by the said directors.

Directors may
 borrow money
 in case of loss,
 and charge the
 interest on
 such loan.

VI. And in order that there may be but one assessment annually, and that
 it be paid at the annual meeting of the company :—Be it further enacted, &c.,
 that the directors are hereby authorized, in case of any loss or damage by fire,
 or to cover incidental expenses, to borrow such sums of money as the cir-
 cumstances may render necessary ; and the interest payable on such loan, or

loans shall be included in the annual assessment, and the deposit notes in the hands of the secretary or treasurer especially appropriated in favor of the lender or lenders, to the payment of the amount of such loans. to the annual assessment.

VII. And be it further enacted, &c., that the companies established under the authority of the said act, shall not in future be obliged to enregister the policies, as provided by the ninth clause of the said act, before they can enjoy the privileges mentioned in the said clause. Companies not obliged to enregister policies. But see Tables.

VIII. And be it further enacted, &c., that whenever any loss or damage by fire, sustained by any member of the said corporation, shall be ascertained, and payable by the company, the directors shall cause the same to be settled and paid conformably to this act and the regulations of the company, and shall cause to be entered in the books of the company the amount of the dividend to be paid by each member of the said company, on the amount of the notes which such member shall have deposited; and such directors shall, in like manner, publish in the newspapers, and at the doors of the churches of the parishes in which any members of the said company may be resident, as prescribed by the bye-laws, the total amount of the dividend to be paid in, which shall have been declared during the year; and thirty days after such notice the directors may sue for, and recover with costs, the amount of the deposit notes of the members who shall have refused or neglected, during the said space of time, to pay to the treasurer of the company the sum or sums of money which the directors shall have declared to be the dividend to be paid on such deposit notes. Losses or damages sustained by any member of the corporation and payable by the company, shall be settled by the directors.

IX. And be it further enacted, &c., that when the amount of the notes deposited shall not suffice to cover the losses or damages, as provided for in the eighteenth section of the act hereby amended, the persons who shall have sustained such losses or damages, shall receive, over and above what is granted them by the said section, a further sum, which shall be assessed on all the members of the said company, and which shall not exceed ten shillings on every hundred pounds insured, and shall be less, if a less sum will suffice; and the said members shall not thereafter be required to pay for any losses or damages occasioned by any one fire, more than the said sum of ten shillings, currency, on every hundred pounds insured with the said company, over and above the amount of their deposit notes, nor more than that sum for any such loss or damage, after the said notes shall have been paid, and the amount expended; but any member, by paying the full amount of his deposit note and surrendering his policy, before any further loss or expense has occurred, may be discharged from all his obligations towards the said company. When amount of notes deposited is not sufficient to cover losses, persons sustaining the same to receive a further sum to be assessed on all the members.

X. And be it further enacted, &c., that the act hereinabove cited, shall, as shall also this act, continue in force until the first day of May, one thousand eight hundred and fifty-six, and thence until the end of the next session of the provincial parliament, and no longer. Continuance of the said act and of this.

30. PARISHES, CHURCHES, &c.

An Ordinance concerning the erection of Parishes; and the building of Churches, Parsonage Houses and Church-yards. 2 Vict. (3) Cap. 29.
(Temporary.)

WHEREAS the provisions of the act passed in the first year of the reign of His late Majesty William the Fourth, chapter fifty-one, in- Preamble.

1 W. 4. c. 51.
and

31 G. 3. c. 6.
cited.

Governor may
appoint five
commissioners
in each dis-
trict, for the
purposes of this
ordinance.

The ecclesi-
astical authori-
ties, on peti-
tion, to proceed
to the canon-
ical erection,
&c., of any
parish, &c.

Notice to be
given of the

titled, *An act for ascertaining, establishing and confirming in a legal and regular manner, and for civil purposes, the parochial subdivisions of various parts of this Province*, and those of the act or ordinance passed in the thirty-first year of the reign of His late Majesty George the Third, chapter six, intituled, *An act or ordinance concerning the building and repairing of churches, parsonage houses and church-yards*, are insufficient, and that for the quiet and happiness of Her Majesty's Roman catholic subjects in this Province, it has become necessary to make permanent and more efficient provision in this behalf :—Be it therefore ordained and enacted, &c., that it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government, by a commission under the great seal of the Province, in Her Majesty's name, to commission, name and appoint in each of the districts of this Province, five persons duly qualified and resident therein, to be commissioners for the purposes of this ordinance, and to remove them and appoint others in their stead ; and the commissioners so appointed in each district, may together, or any three, at least, of them, may exercise the authority, jurisdiction and powers which are vested in them by this ordinance, until the revocation of their commission, which shall remain in force until such revocation, although it may not have been renewed by any successor of the Governor, Lieutenant-Governor, or person administering the government, who shall have issued it.

II. And be it further ordained, &c., that whenever it shall be required to erect any new parish, to dismember or subdivide any parish, or unite two or more parishes, or to alter or modify the bounds, limits or division lines of any parish already established and erected according to law,—or when in any parish or mission, it shall be required to construct and erect a parish church or chapel, or chapel of ease, or a sacristy, or other appurtenance of any such church or chapel, or a parsonage house and the appurtenances thereof, or a church-yard, or to alter or repair the same, or any of them,—in any of the said cases, on a petition of a majority of the inhabitants, (being freeholders,) interested in any creation, subdivision, dismemberment or union of any parishes, or in any alteration or modification of the bounds, limits or division lines of any parish as aforesaid, or interested in the construction or erection, or in any alteration or repairs of any church, parsonage house or church-yard as aforesaid, such petition being presented to the Roman catholic bishop of the respective dioceses of Quebec or Montreal, wherein such creation, dismemberment, subdivision or union of parishes is to be made, or such church, sacristy, parsonage house, or church-yard and appurtenances are to be erected or repaired,—or in case of the absence of the bishop or the vacancy of the episcopal see, then such petition being presented to the administrator of the said diocese,—the said ecclesiastical authorities, or such other person or persons as they may appoint and authorize for the purposes aforesaid, shall proceed according to the ecclesiastical law and the practice of the said diocese, to the final decree for the canonical erection of any parish, or the division or union of any parishes, or to the order and decree which shall finally determine the location and construction of any new parish church or chapel, or chapel of ease, or sacristy, or of any parsonage house or church-yard, and the principal dimensions thereof, or any alteration or repairs to be made in and to the same, as the case may be.

III. And be it further ordained, &c., that in all the proceedings which may take place on the part of the ecclesiastical authorities, in any of the

cases hereinbefore mentioned in the foregoing section, sufficient notice shall be given to the persons interested, at least ten days before, of the day and place when and where the bishop or his delegate, will proceed to the spot for the purposes mentioned in the petition presented as aforesaid ; and such notice shall be publicly read and posted up during two consecutive Sundays, immediately after Divine service in the forenoon, at the door of the church or chapel of each of the parishes or missions in which the persons interested reside, or if there be no church or chapel, then at the most public spot in the place where the persons interested reside, and also at the door of the church or chapel of the parish or mission whence they are ministered to ; but the publications of notices required by this ordinance may legally be made in that * of the two parishes ministered to by the same rector, where Divine service shall be performed.

day when the locality will be visited by the bishop or his delegate.

* "That one,"
See French.

IV. And be it further ordained, &c., that whenever there shall have been rendered, as aforesaid, according to the canonical laws and forms followed and in use in the said diocese, any decree for the erection of a new parish, or for the subdivision, dismemberment or union of any parishes, or with regard to any alteration or modification of the bounds, limits and division lines of the parishes already erected and established according to law, it shall then be lawful for the majority of the inhabitants (being freeholders) of the said parishes or subdivisions of parishes, interested in the erection, division lines, boundaries or limits established by such canonical decree, to apply to the said commissioners for the civil recognition of such canonical decree ; and the said commissioners may then proceed to ascertain the extent, limits, boundaries and division lines of such parish, subdivision, dismemberment or union of parishes, and may generally enquire into all things which may have been done or ordered by the ecclesiastical authorities alone, or with regard to any alterations and modification made by the said authorities in the limits, boundaries and division lines of the parishes or subdivisions of parishes already established and erected according to law ; of all which the said commissioners shall make a report to the Governor, Lieutenant-Governor, or person administering the government, for the time being, in which report they shall set forth the bounds, limits and division lines of each parish or subdivision of parishes, and of the alterations and modifications to be made in parishes already established and erected according to law, and shall further declare the limits, bounds and division lines, which they may think it would be most for the convenience of the inhabitants to assign : Provided always, that in case it should become necessary to make any changes or modifications in the matters regulated and ordered by the canonical decree, it shall be the duty of the said commissioners to consult the ecclesiastical authorities hereinabove mentioned, or such persons as shall or may be named by them for that purpose, and to obtain their opinion on the subject, and communicate the same in their report, together with all remonstrances and representations which any number of inhabitants may have thought it necessary to make to them, in support of their demands or claims.

After the canonical decree, the inhabitants to apply to the commissioners for the recognition thereof.

Commissioners may ascertain limits, boundaries, &c., and examine proceedings of ecclesiastical authorities, and shall report to the Governor.

Provido.

V. Provided always, and be it further ordained, &c., that nothing contained in this ordinance, having relation to the dismemberment, division or subdivision of parishes already established and erected according to law, or to the union of two or more parishes, or to the changing or altering the limits, boundaries, or lines of demarcation of the said parishes, shall extend to any of the said parishes which may have contracted debts for the erection

Provido with regard to parishes which may have contracted debts.

of churches or parsonage-houses in the said parishes respectively, until the said debts be paid and satisfied.

On the report of the commissioners, the Governor may issue his proclamation erecting the parish for civil purposes.

VI. And be it further ordained, &c., that on the *procès verbal* of the said commissioners, containing their report as aforesaid, it shall be lawful for the Governor, Lieutenant-Governor, or person then administering the government, to issue a proclamation under the great seal of the Province erecting such parish for civil purposes, and for confirming, establishing and recognizing the limits and boundaries thereof; and such proclamation shall avail as a legal erection and confirmation for all civil purposes, of the parish or parishes or subdivision of parishes therein designated, and of those which may have been formed by the dismemberment, union, or subdivision of parishes erected and recognized by the *arrêt* of His Most Christian Majesty, dated third March, seventeen hundred and twenty-two, or by any other subsequent letters patent or proclamations; any law, custom or usage to the contrary notwithstanding.

Commissioners may personally visit any locality, or depute one of themselves so to do.

VII. And be it further ordained, &c., that whenever the said commissioners shall be so called upon to proceed to ascertain and determine the limits, bounds and division lines, for the civil erection of any parish, or the subdivision, union or dismemberment of any parish, the said commissioners at the instance of the persons interested (or when there shall arise any difficulties, objections, or oppositions, or when they shall deem it advisable either for the sake of avoiding the necessity of putting too great a number of the inhabitants to the trouble and expense of travelling, or in order that they may themselves better judge of the validity of the pretensions of the parties) may proceed in person to the spot, after sufficient notice given in the manner hereinabove prescribed by the third section, or it shall be lawful for them to depute one of themselves to visit the spot, with reference to the matters aforesaid, and to report thereon to them.

Any person refusing to exhibit documents relative to the limits, &c., of parishes shall be liable to a penalty.

VIII. And be it further ordained, &c., that the said commissioners shall in all cases have power and authority to send for and examine, and, if necessary, to take copies of all papers, plans and documents relative to the limits, bounds and division lines of parishes, or subdivisions of parishes which may be in the possession of any person or officer whomsoever, civil or ecclesiastical; and if any person having such documents in his possession, shall refuse or neglect to exhibit them to the said commissioners, he shall be liable to a fine of ten pounds, currency, to be recovered by action in any court of competent jurisdiction.

Meeting for the election of trustees.

IX. And be it further ordained, &c., that whenever there shall be made by the ecclesiastical authorities, any order or decree for the location, erection and construction, alteration, removing, or repairing of any parish church or chapel, or chapel of ease, or sacristy, parsonage house or church-yard, as hereinabove mentioned, it shall be lawful for the majority of the inhabitants, (being freeholders,) interested in such construction or repairs, to apply by petition to the said commissioners, praying that a meeting of the inhabitants of such parish or mission may be called for the purpose of proceeding to the election of three or more trustees to carry the said decree into effect; and the said commissioners may thereupon authorize such meeting and election, by an order to that effect.

How to be called, and trustees to be elected.

X. And be it further ordained, &c., that in virtue of the said order of the said commissioners, the rector or priest having the spiritual care of, and performing the duties of rector in the parish or mission, shall call by the

sound of the bell, and after notice given from the pulpit during two consecutive Sundays, such general meeting of all the inhabitants, (being freeholders) of the parish or mission, and shall preside thereat; and at such meeting trustees shall be elected by a majority of votes; of all which a record shall be made in due form.

XI. And be it further ordained, &c., that the trustees so elected, shall be freeholders resident in the parish or mission for which they shall be elected, and shall be bound to accept the said office and to perform the duties thereof, unless they shall be exempted by the commissioners for reasons and excuses sufficient in law to exempt any person from being appointed to the office of tutor; and all such excuses shall be offered within eight days from the day of the election; but the fact of his having five or more children, shall not be a valid excuse to exempt any person so elected from serving as trustee.

Trustees to be freeholders and bound to accept office, unless exempted.

XII. And be it further ordained, &c., that in case of the death of any one of the said trustees, or in case of his serious illness, madness or lunacy, or if any trustee should cease to reside in the parish or mission for which he shall have been elected, or, finally, in case of sufficient excuse and legal exemption, as set forth in the preceding section, such trustee shall be replaced by another, to be elected in the manner and form hereinabove prescribed for the election and appointment of trustees.

Trustees to be replaced in certain cases.

XIII. And be it further ordained, &c., that the trustees, or a majority of the trustees, so elected, shall, before they enter on the duties of their office, present a petition to the said commissioners, praying that their election may be confirmed, and that they may be permitted and authorized to assess the proprietors of lands and other immoveable property, situate within the parish or mission for which they shall have been elected, and to levy the amount of the sum assessed on each individual for his portion of the contribution, as well for the purpose of effecting the construction and repairs which may be in question, as of meeting the expenses which they may occasion, and which shall be deemed necessary by the said commissioners: and the said commissioners may hear, examine and decide upon the allegations and prayer of such petition, and may grant or refuse the said prayer together or in part, after having caused the act of election to be published in the said parish or mission, and given public notice to the inhabitants interested, of the day on which the said commissioners will take the act of election and the petition of the said trustees into consideration, in order that the opposants, if any there be, may be heard.

Their election to be confirmed before entering on the duties of their office.

XIV. And be it further ordained, &c., that so soon as the said commissioners shall have made an order approving the election of the said trustees, and authorizing them to make an assessment, and to levy the sums assessed as aforesaid, the said trustees shall proceed to draw up an act of assessment, which shall comprise a specification of the work to be done, and a detailed estimate of the expenses, known and unforeseen, which shall be deemed necessary by the said trustees, for the construction or repairs in question, also a correct statement of all the lands and other immoveable property situate in the said parish or mission, (excepting church property which is not liable to such assessment,) shewing the extent and value of each lot, and the name of the real or supposed owner, and the proportionate sum of money and the quantity of materials, if any,) which they shall have assessed on each lot, towards the necessary expenses of such construction or repairs:

Trustees to draw up an act of assessment.

To be deposited in the parsonage house during fifteen days.

Notice to be given previous to its homologation being moved for.

Commissioners to have power to reject, modify, or confirm the act of assessment.

Proprietors under 21 years of age, not qualified to vote, &c.

Proviso.

Protestants exempt from assessment.

Secretary to be appointed.

and such act of assessment, after it shall have been made and completed, as aforesaid, by the said trustees, or a majority of them, shall be deposited during fifteen days in the parsonage house of the parish, or if there be none in the house of some notary, or well known inhabitant of the place, in order that all persons interested may take cognizance thereof during the term aforesaid, at any time between eight o'clock in the morning and five in the afternoon : and the said trustees shall cause public notice to be given, by notice in writing, read publicly, and posted at the door of the church or chapel of the parish, (or in default of such parish church or chapel, at the most public place, and at the door of the church of the parish whence the inhabitants of the parish or mission in question are ministered to) on three consecutive Sundays, immediately after Divine service in the forenoon; the said notice setting forth the place in which the act of assessment is deposited, and also the day and hour, and the place, when and where the trustees will move for its homologation before the commissioners, in such manner as the whole shall have been regulated and prescribed in the order made by the said commissioners.

XV. And be it further ordained, &c., that on the day appointed for proceeding to the consideration of the said act of assessment, the said trustees or the majority of them, shall present the said act to the said commissioners for homologation, and shall accompany it by sufficient written proof of its having been duly deposited, and a sufficient certificate of the publication of the notice hereinabove mentioned ; And the said commissioners shall have full jurisdiction, power and authority, to hear, judge and determine between the trustees and the parties interested, by rejecting, modifying, or confirming the said act of assessment altogether or in part, as they may find it just and reasonable to do.

XVI. And be it further ordained, &c., that no individual shall be admitted to oppose the homologation or confirmation either of the act of election of the said trustees, or of the act of assessment which they shall have made, nor shall be reckoned among the signers of the petition which shall be presented to the commissioners before trustees can be elected, nor shall be competent to vote at the election of the said trustees, unless he shall have attained the full age of twenty-one years, and shall hold separately, as proprietor, and shall have held for at least six months, a lot of land or other immoveable property situate in the parish in question : Provided always, that nothing herein contained shall be construed so as to prevent co-tenants being of lawful age, from making such oppositions, or from voting at the election of trustees, or from signing any petition as hereinabove mentioned.

XVII. Provided always, and be it further ordained, &c., that nothing in this ordinance contained shall be construed to render any one of Her Majesty's subjects of any class of protestants whatsoever, or any persons whatsoever, other than Her Majesty's subjects professing the Roman catholic religion, liable to be assessed or taxed in any manner whatsoever for the purposes of this ordinance, or to extend in any manner or way whatsoever to the erection, creation, subdivision, dismemberment or union, or to the alteration of the bounds of any parish already formed, or to be formed according to the establishment of the church of England.

XVIII. And be it further ordained, &c., that the said commissioners shall appoint a fit person to be their secretary, and may remove him and appoint another in his stead ; and such secretary shall keep a register of all the

judgments, orders and proceedings of the said commissioners, and shall have the legal custody of the said register and of the said proceedings.

XIX. And be it further ordained, &c., that when the act of assessment shall have been homologated by the said commissioners, the trustees shall have a right to exact from the assessed, the payment of their rates or assessments; and in case of the refusal of such payment, the same may be recovered before any civil court of the district, of competent jurisdiction, according to the amount thereof. Trustees may recover assessment money by action.

XX. And be it further ordained, &c., that whenever, in any of the said districts, more than two of the said commissioners shall be interested in the civil erection of any parish, or in the construction or repairing of any building for Divine worship, then and in that case, on a representation to that effect made by any one of the said commissioners, it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government of the Province, to appoint, by a special commission, one or more persons not interested, to be commissioners to act in such case as aforesaid, jointly with those of the commissioners who shall not be interested in the matters aforesaid. Special commissioners may be appointed in a certain case.

XXI. And whereas the commissioners appointed in the several districts of this Province, under the act or ordinance hereinabove cited, concerning the construction and repairing of churches, parsonage-houses and church-yards, have from time to time rendered certain judgments and sentences, and adopted divers proceedings with regard to assessments for the building, constructing or repairing of churches, parsonage-houses and church-yards existing and established merely *de facto*, or recognized by the ecclesiastical authorities alone, without the express co-operation and assent of the civil authorities; and whereas it is proper to prevent and avoid the questions and difficulties which might arise as to the validity of such judgments, sentences, and other proceedings on this subject:—Be it therefore ordained, &c., that the said judgments, sentences and proceedings shall be held to be valid,—and shall be followed and executed as if the said parishes had been legally established. Certain judgments, &c., rendered by commissioners appointed under Ordinance 31 Geo. 3. cap. 6, to be valid.

XXII. And be it further ordained, &c., that from and after the passing of this ordinance, the act or ordinance, &c., (31 Geo. 3. cap. 6.) shall be and is hereby suspended during the continuance of this ordinance, in so far only as the same may be repugnant thereto: Provided always, that the commissioners at present appointed under the said act or ordinance, may continue the proceedings commenced before them until final judgment, and in as valid a manner as if this ordinance had never been passed. Ordinance 31 Geo. 3. cap. 6, suspended. Proviso.

XXIII. Provided always, and be it further ordained, &c., that until it shall have pleased the Governor, Lieutenant-Governor, or person administering the government, to appoint commissioners for the purposes of this ordinance, the commissioners now appointed under the act mentioned in the preamble to this ordinance, and passed in the first year of the reign of His late Majesty William the Fourth, chapter fifty-one, may continue to proceed, either together or by a majority of them, in each of the districts of this Province, respectively, with regard to the civil erection of all parishes, or subdivisions of parishes, with regard to which they had power to proceed by virtue of the said act, but which have not hitherto been so erected, and to make their report thereon to the person administering the government of this The commissioners appointed under 1 Will. 4, cap. 51, may continue their proceedings, until others are appointed under this ordinance.

* *See French.* Province, until a proclamation shall issue* ; the whole in as valid a manner as if this ordinance had never been passed.

Saving of the rights of Her Majesty and others.

XXIV. And be it further ordained, &c., that nothing herein contained shall affect, or be construed to affect, in any manner, the rights of Her Majesty, Her Heirs and Successors, or of any other person, body politic or corporate, those only excepted who are mentioned in this ordinance.

4 Vict. Cap. 23.

An Ordinance to extend the provisions of a certain Ordinance concerning the erection of Parishes for civil purposes, to Parishes canonically erected before the passing of the said Ordinance.

Preamble.

The provisions and enactments of the 2 Vict. (3) c. 29, extended to parishes erected and constituted before the passing of said ordinance.

WHEREAS, the provisions made in and by a certain ordinance, &c., (2 Vict. (3) cap. 29.) for the legal erection of parishes for civil purposes, do not extend to parishes erected and constituted by canonical decree and for ecclesiastical purposes, before the time of the passing of the said ordinance ; and whereas it now appears that many parishes which had been so erected as aforesaid, for ecclesiastical purposes, had not at the time aforesaid been legally erected for civil purposes, and it is expedient and necessary to extend to such parishes the provisions of the said ordinance :— Be it therefore ordained and enacted, &c., that all the provisions and enactments of the ordinance herein first above cited, concerning the erection of parishes for civil purposes, and the powers thereby vested in the Governor of this Province, and in the commissioners appointed under the authority of the said ordinance, shall be and are hereby extended to and may be exercised with regard to parishes erected and constituted before the passing of the said ordinance, by canonical decree, and according to the ecclesiastical laws and forms followed and in use in the diocese of Quebec or of Montreal, in as full, ample and beneficial a manner to all intents and purposes, as if the said parishes had been respectively so constituted by canonical decree after the passing of the said ordinance, and under the provisions and enactments thereof ; and a proclamation or proclamations for erecting such parishes or any of them, for civil purposes, and for confirming, establishing and recognising the boundaries thereof, may issue accordingly, and shall avail as a legal erection and confirmation of such parish or parishes, for all civil purposes whatsoever.

31. PENALTIES, ACTIONS FOR, LIMITATION OF.

See Class D. 32. Page 183.

32. PENSIONS TO DIVERS PERSONS.

Acts 3 Geo. 4. caps. 39 & 40—9 Geo. 4. caps. 63 & 72—and 1 Will. 4. cap. 48,—are omitted for the reasons stated in the Table.

33. QUAKERS, INDULGENCES TO.

33 Geo. III. Cap. 4.
Preamble.

An Act for granting Indulgences to the People called Quakers.

WHEREAS divers statutes have been made in ease and favor of the protestants dissenting from the church of England, called Quakers,

and it is reasonable that the people, called quakers in this Province should enjoy such ease and indulgence as their religious tenets require :—Be it therefore enacted, &c., that from and after the publication hereof, the people commonly called quakers, which now are and hereafter shall be residing in this Province, shall not be compellable to take oaths, but instead thereof make solemn affirmation, in the same form and words in which an oath is directed to be administered, leaving out the word *swear*, and inserting in the place thereof, *do solemnly, sincerely and truly declare and affirm*.

Quakers to make affirmation instead of an oath.

II. And be it further enacted, &c., that personal military duty or service shall not be required or exacted from the said people called quakers, but that in all cases where by the militia laws or regulations of this Province, any of the said people called quakers shall be commanded to appear at any review or other general militia service, every such quaker shall forfeit a fine of two shillings, current money of this Province, for every time he shall be absent from such review or other general militia service, to be sued for, levied and recovered in the same manner and before the same court, as other militia fines not exceeding ten shillings ; and in all cases where any quaker or quakers may be commanded or ballotted for to serve in any detachment of militia, and the said quaker or quakers do not provide a sufficient substitute or substitutes to serve in such detachments in his or their places, agreeable to law, it shall and may be lawful for the commanding officer of the militia of the district where such quaker or quakers reside, to provide, upon as reasonable terms as may be, a good and sufficient substitute or substitutes to serve in such detachment, in the place or places of the said quaker or quakers, if such commanding officer think proper so to do, and the sum agreed for by such commanding officer, shall be paid to such substitute or substitutes, by such quaker or quakers in whose place or places they shall respectively serve ; but, in all cases where any quaker or quakers shall be commanded or ballotted for, to serve in any detachment of militia, and do not provide or cause to be provided, good and sufficient substitutes to serve in his or their place or places, as before set forth, every such quaker or quakers shall then respectively forfeit for every refusal or neglect to serve in any detachment of militia, for which he or they shall have been commanded or ballotted for, such sum or sums of money as may be adjudged reasonable by the militia court of the district where such quaker or quakers reside, consideration being had by the said court to the nature and time of the service for which such detachment is embodied ; and the forfeit hereby imposed, shall and may be sued for, levied and recovered, in the same manner as any militia fine or penalty exceeding ten shillings : Provided always, that nothing herein contained shall extend or be construed to extend to exempt any of the people called quakers, from enrolling his or their name or names, with a captain of the militia of the township or parish wherein he or they may reside.

Quakers not subject to personal military duty but to find substitutes on detachments ; commanding officers may provide substitutes on certain terms : nothing to prevent Quakers from enrolling themselves in any company of militia.

Proviso.

III. And be it further enacted, &c., that if any quaker taking the said affirmations, shall be lawfully convicted of wilful false and corrupt affirming or declaring any matter or thing, which if sworn in the common and usual form, would have amounted to wilful and corrupt perjury, every such person so offending, shall incur and suffer such and the same pains, penalties and forfeitures as are inflicted or enacted by law, against persons convicted of wilful and corrupt perjury.

Quakers convicted of false and corrupt affirming, subject to the pains of wilful and corrupt perjury.

Quakers not exempted from militia duty, unless they produce a certificate from their quarterly meetings.

IV. And to the end that neither those who in reality are of the people called quakers, may be deprived of the indulgence hereby given, nor any abuses committed under the colour thereof:—Be it provided and enacted, &c., that all and every such person as shall not have been publicly known to be of the people called quakers, for some years before his or her affirmation is to be administered to him or her in any court, or before any justice of the peace, or any person qualified to administer the same, shall not be admitted to make any affirmation in manner aforesaid, nor shall any man be exempted from personal service in the militia,—unless it shall appear by a certificate from the quarterly meeting of the people called quakers, where such persons shall dwell or reside, signed by six or more of the principal people of such meeting, that such person has been deemed and allowed one of the people called quakers, for the space of twelve months or upwards before he or she is to make such affirmation as aforesaid ; any thing herein or any other law or usage to the contrary notwithstanding.

Quakers not permitted to give evidence in criminal causes, to serve on juries, or to hold office, &c. Fines how applied.

V. Provided nevertheless, and be it enacted, &c., that no Quaker shall, by virtue of this act, be qualified or permitted to give evidence in any criminal cause, or to serve on juries, or to bear any office or place of profit in the government ; any thing herein contained to the contrary notwithstanding : And the fines, forfeitures and penalties hereby granted and reserved for the Crown, are to be for the public uses of this Province, and for the support of the government thereof, and shall be accounted for to the Crown through the commissioners of His Majesty's treasury, for the time being, as the Crown shall direct.

34. RECORDS, FRENCH, SAFE KEEPING OF CERTAIN.

30 Geo. III.
Cap. 8.

An Act or Ordinance for the better preservation and due distribution of the Ancient French Records.

Preamble.

WHEREAS there are several hundred volumes of papers, manuscripts and records, very interesting to such of the inhabitants of this Province as hold property under titles acquired prior to the conquest, which ought so to be disposed of as to give a cheap and easy access to them, and it is expedient that they be kept in a state of preservation and safety, and that measures be pursued to make them known and useful ; And whereas the ancient records of the district of Montreal require a speedy attention to preserve them from danger and ruin, and the erection of the new district of Three-Rivers, separated from the districts of Quebec and Montreal, renders it necessary to restore to the said district of Three-Rivers, such of the public records as may be found elsewhere, and more immediately concern the inhabitants of the said district of Three-Rivers :—Be it therefore enacted, &c., that it shall and may be lawful for the Governor or Commander-in-chief, for the time being, by and with the advice of the council, to make orders, from time to time, touching the arrangement, removal, digesting, printing, publishing, distributing, preserving and disposing of the same papers, manuscripts and records, or any parcel thereof ; and every person possessed of any of the said papers, manuscripts and records, anciently appertenant to any public office or deposit, prior to the conquest, who shall surrender the same, as by such order may be required, shall be as justifiable therefor in the law, as if the same were delivered up in pursuance of any

The Governor, with advice of the council, to make orders, touching the records.

act or ordinance for such purpose specially made and provided ; and it shall be as unlawful for any person possessed of any such public paper, manuscript or record, to withhold or detain the same contrary to such order, as if the same was withheld and detained against any act or ordinance of the legislature, expressly commanding the surrender and restitution of the same, to the proper office to which the same might belong or appertain.

35. REGISTERS OF MARRIAGES, BAPTISMS AND BURIALS, &c.

An Act to establish the forms of Registers of Baptisms, Marriages and Burials, to confirm and make valid in law the Register of the Protestant Congregation of Christ-Church, Montreal, and others which may have been uniformly kept, and to afford the means of remedying omissions in former Register.*

35 Geo. III.
Cap. 4.

* Sic. But the French is "Régistres."

WHEREAS the keeping of uniform and authentic registers of the baptisms, marriages and burials in this Province, will tend to secure the peace of families, and to ascertain various civil rights of His Majesty's subjects therein :—Be it therefore enacted, &c., that from and after the first day of January, which will be in the year subsequent to the passing of this act, in each parish church of the Roman catholic communion, and also in each of the protestant churches or congregations within this Province, there shall be kept by the rector, curate, vicar or other priest or minister doing the parochial or clerical duty thereof, two registers of the same tenor, each of which shall be reputed authentic, and shall be equally considered as legal evidence in all courts of justice,—in each of which the said rector, curate, vicar or other priest or minister, doing the parochial or clerical duty of such parish or such protestant church or congregation, shall be held to enregister regularly and successively all baptisms, marriages and burials, so soon as the same shall have been by them performed ; and the said registers shall be furnished out of the church funds, and previous to any entry therein, shall be presented or caused to be presented by the said rector, curate, vicar or other priest or minister doing the parochial or clerical duty of each parish or protestant church or congregation, to one of the justices of the court of King's bench, or the judge of the provincial court, of the district in which such parish or protestant church or congregation is comprehended, to be by him or the said justice or judge, numbered or authenticated or *paraphé* on each leaf hereof ; and such registers so numbered and authenticated or *paraphé*, and which shall be kept in manner and form as hereinafter mentioned, shall be legal evidence of such baptisms, marriages or burials ; and the one of the two registers which is to remain in the hands of the curate, vicar, or other priest or minister in each parish, protestant church or congregation, as hereinafter directed, shall be a bound book of strong paper, covered with calfskin or buckram, which shall be numbered and authenticated or *paraphé*, as above prescribed, to serve for enregistering the births, marriages and burials for one or several years, till such book be filled ; and the other register, which is to be deposited, as hereinafter directed, at the clerk's office of the civil court of King's bench, shall be numbered and authenticated or *paraphé*, to serve for enregistering the same for one year only, commencing the first day of January.

Preamble.

Rectors of parishes, &c., after 1st January, 1796, to keep two registers, both of which to be authentic.
See Tables.

Which are to be numbered and authenticated.

See Tables.

One of the registers to remain with the rector, &c.

And the other deposited in the civil court of King's bench.

Rectors, &c.,
to make an
index.

II. And be it further enacted, &c., that to each of the two registers to be kept in the manner and form as by this act is directed, there shall be made by the rector, curate, vicar, or other priest or minister officiating in any parish, protestant church or congregation, an alphabetical index of the names of the persons baptised, married and deceased, with references to the folio in which the said names are to be found.

Entries of
baptisms how
regulated.

III. And be it further enacted, &c., that in the entries of baptisms, in the registers aforesaid, mention shall be made in words, of the day, month and year, on which the child was baptised, of the time of the birth, of the name given to the child, that of the father and of the mother, with the quality or occupation and place of abode of the father, and the name of the sponsors, if any there be; and such entries shall be signed in both registers by the person administering the baptism, also by the father and mother if they are present, and by the sponsors if there are any,—and if any of them cannot or know not how to sign his or her name, mention shall be made thereof in the said entries; provided always that when any child shall be presented for baptism of which the father or mother is not known, mention thereof shall be made in said registers.

Proviso.

Entries of
marriages how
regulated.]

IV. And be it further enacted, &c., that in the entries of marriages in the registers aforesaid, shall be inserted in words, the day, month and year, on which the marriage shall have been celebrated, with the names, quality or occupation and places of abode of the contracting parties, whether they are of age or minors, and whether married after publications of banns or by dispensation or licence, and whether with the consent of their fathers, mothers, tutors or curators,—if any they have in the country, also the names of two or more discreet persons present at the marriage, and who, if relations of the husband and wife or either of them, shall declare on what side and in what degree they are related; and such entries shall be signed in both registers by the person celebrating the marriage, by the contracting parties, and by the said two discreet persons, at least,—and if any of them cannot or know not how to sign his or her name, mention shall be made thereof in the said entries.

Entries of
burials how
regulated.]

V. And be it further enacted, &c., that in the entries of burials in the registers aforesaid, mention shall be made in words, of the day, month and year of the person's burial, and day of decease, if known, and of the name and quality or occupation of the person deceased; and the said entries shall be signed by the clergyman who performed the burial service, and by two of the nearest relations or friends there present, and if any of them cannot or know not how to sign his or her name, mention shall be made thereof in the said entries.

Rectors annu-
ally to transmit
to the civil
court of King's
bench or
provincial
court one
register.

VI. And be it further enacted, &c., that in six weeks at farthest after the expiration of each year, each rector, curate, vicar, or other priest or minister doing the parochial or clerical duty of any parish, protestant church or congregation, shall be held to deliver or cause to be delivered in the register which shall have been numbered and authenticated or *paraphé* to serve for the said year, to the clerk's office of the civil court of King's bench, or of the provincial court, of the district where such parish, protestant church or congregation is situated, and to take or cause to be taken a receipt for the same from the clerk of such court; and the other register numbered and authenticated, or *paraphé*, as before mentioned, shall remain with the said rector, curate, vicar, or other priest or minister, to be by him preserved

And the other
to remain with
the rector, etc.

and left to his successor in office or clerical duty ; and it shall be at the option of parties interested, to demand copies of the said entries from either of the registers aforesaid ; and the clerks of the said courts and the rectors, curates, vicars and other priests in possession of such registers, are hereby required to grant the same, certified under their respective signatures, which shall be received as evidence in all courts of justice.

VII. And be it further enacted, &c., that every rector, curate, vicar, or other priest or minister doing the parochial or clerical duty of a parish, protestant church or congregation, who shall neglect or refuse to comply with the true intent and meaning of this act, either in the form of the aforesaid registers, of the entries therein to be made, or in the delivery of the same to the clerk's office aforesaid, shall incur and pay for each neglect or refusal a sum not less than two pounds, and not exceeding twenty pounds, current money of this Province, without prejudice to the right of action which the suffering parties may have for all costs, damages and interest of a civil nature on account of such neglect or refusal as aforesaid, against the transgressors of the intent and meaning of the present act.

Penalty on rectors not complying with this act.

VIII. And be it further enacted, &c., that this act shall be construed to extend to all religious communities and hospitals where persons may be interred, and all priests or ministers doing the clerical duty of such religious communities and hospitals shall be deemed subject to the duties and penalties thereby imposed.

This act to extend to religious communities and hospitals.

IX. And be it further enacted, &c., that the penalties incurred in the manner abovementioned, may be recovered by action of debt in any court of record in this Province, by any person or persons suing for the same, one half of which shall be paid to the receiver general for the use of the Crown, to be applied for the public uses of this Province, and for the support of the government thereof, and shall be accounted for to the Crown through the commissioners of His Majesty's treasury for the time being, as the Crown shall direct, and the other moiety to such person or persons as shall or may sue for the same, together with the costs incurred in such suit, to be by him or them received for his or their proper use and benefit.

Penalties how recovered.

And how applied.

X. And whereas a petition has been presented to the house of assembly from the church-wardens and vestry of the protestant congregation of Christ-church, Montreal, praying the interposition of the legislature to legalize the register of baptisms, marriages and burials of the said congregation, which have not been kept agreeable to the rules and forms prescribed by the law of this Province, and which register has been exhibited to the legislature, and is in the hand writing of the late reverend David Chabrand Delisle, rector of the said church, and is marked A. and certified by James M'Gill, esquire, who was chairman of a committee of the house of assembly, appointed to report in the matter of the said petition ; and whereas such informality, unless provided against and remedied, may be attended with great prejudice to the rights of families and individuals of the said congregation and others:—Be it therefore further enacted, &c., that the said register of baptisms, marriages and burials of the said protestant congregation of Christ-church, Montreal, in this Province, in the hand writing and so marked and certified as aforesaid, beginning with an entry of the marriage of Peter Paul Soubeiran and Catharine Felicite Choumont, on the twenty-second day of November, which was in the year of our Lord one thousand seven hundred and sixty-six, and ending with an entry of the

The register of the protestant congregation of Christ-church Montreal, made valid in law.

And also the duplicate of such register.

And to be deemed evidence of the truth of the entries therein contained.

Certain other registers not having been kept according to law, if presented with a duplicate to a judge, and by him certified, to be deemed evidence of the truth of the entries therein contained.

* *There is a defect in the construction of this clause,—but the same defect is found in the French.*

Proviso.
The justice or provincial judge not to sign such informal register, unless oath be made by the rector

burial of Marguerite Wram, on the fifth day of December, in the year of Our Lord one thousand seven hundred and ninety-three,—and also the register containing the continuation of such further entries of the baptisms, marriages and burials of the said protestant congregation, or others that have been or may be made therein, down to the first day of January, which will be in the year of our Lord subsequent to the passing of this act,—be, and the same is and are hereby confirmed and made valid in law, to be received as evidence in all courts of justice; and there shall be made an exact duplicate or transcript of such register, and of the continuation thereof at the expense of the said church, which duplicate or transcript shall be therewith compared by one of His Majesty's justices of the court of King's bench for the district of Montreal, and on being found correct, shall be by him certified and signed as an exact duplicate or transcript of such register and continuation; and when so compared, certified and signed, such duplicate or transcript shall be confirmed and made valid in law, and the said register and the continuation thereof shall be delivered to the rector, curate, vicar or minister of the said congregation or church, to be by him preserved and left to his clerical successor, and the said duplicate or transcript shall be deposited in the clerk's office of the civil court of King's bench at Montreal, there to remain and be preserved; and the said register and continuation thereof, and the said duplicate and transcript of the same so deposited, shall, notwithstanding any defect in point of form or otherwise, regarding the same, be deemed evidence of the truth of the entries therein contained, according to the true intent and meaning thereof, and shall have the same force and effect to all intents and purposes as if the same had been kept according to the rules and forms prescribed by the law of the Province.

XI. And whereas there may be other registers which have been kept in this Province, not strictly agreeable to the rules and forms prescribed by law:—Be it further enacted, &c., that any register of baptisms, marriages and burials, which have been informally kept and not deposited as the law directs before the commencement of this act, by any rector, curate, vicar, or other priest or minister of any parish or of any protestant church or congregation, and which* before the expiration of five years after the passing of this act, shall be presented, along with an exact duplicate or transcript thereof, to one of His Majesty's justices of the court of King's bench or provincial judge, of the district wherein such register was kept, in order that the original and the duplicate or transcript thereof may be by him the said justice or judge compared, certified and signed; And notwithstanding any defect in point of form or otherwise regarding such register, duplicate or transcript, the same shall severally be received as evidence in all courts of justice of the truth of the entries therein contained, according to the true intent and meaning thereof, and shall have the same force and effect to all intents and purposes, as if the same had been kept according to the rules and forms prescribed by the laws of this Province.

XII. Provided always, and it is further enacted, that it shall not be lawful to the said justice or provincial judge, to certify and sign any such informal register, or the duplicate or transcript thereof, until oath shall before him be made by the rector, curate, vicar, or other priest or minister, that it is a true and faithful register of the baptisms, marriages and burials by him performed,—and in case the rector, curate, vicar, or other priest or minister, who shall have kept such register be dead, and that the same shall have

been left in his hand writing or signed by him, then, until oath shall be made to such hand writing or signature by one or more credible persons of the parish, protestant church or congregation to which the register relates,—or if such register shall not have been kept in the hand writing of the rector, curate, vicar or other priest or minister deceased, or shall not have been left signed by him, then until one or more credible persons of the parish, protestant church or congregation to which such register relates, shall on oath declare that they verily believe such register was and is the only register kept in such parish, protestant church or congregation at the periods therein mentioned; and that then and in such case the original of such register, certified and signed as above directed, shall be delivered to the rector, curate, vicar, or other priest or minister of the parish, protestant church or congregation to which it relates, to be by him preserved and left to his clerical successor, and the duplicate or transcript thereof, also certified and signed as above directed, shall be deposited in the office of the clerk of the civil court of King's bench or provincial court of the district, there to remain and be preserved.

that it is a true register of the baptisms, &c.

The original to be delivered to the rector, and by him preserved. And the duplicate to be deposited in the court of King's bench or provincial court.

XIII. And whereas the entry of many baptisms, marriages and burials may have been omitted in many registers, whereby families and individuals may be injured in their rights and properties, and it is just and expedient that the means of remedying such omissions should be afforded:—Be it further enacted, &c., that any person who shall find in any register an omission of the entry of any baptism, marriage or burial which shall have happened before the commencement of this act, may at any time before the expiration of five years after the passing of this act, produce evidence thereof before one of His Majesty's justices of the court of King's bench, or provincial judge, of the district where such baptism, marriage or burial so omitted shall have happened,—and upon proof thereof before him being made, upon the oath of two or more persons of the same quality and description as by this act is required, to sign the entry of a baptism, marriage or burial, and who shall have been present thereat, the said justice or provincial judge is hereby authorized and required to order an entry of such baptism, marriage or burial so omitted to be made, in his presence, in the register of the parish, protestant church or congregation which shall be deposited in the clerk's office of the civil court of King's bench or provincial court of the district where such baptism, marriage or burial happened; and such entry shall be signed by the persons who have given evidence thereupon, and if any of them cannot or know not how to sign his or her name, mention shall be made thereof in the said entry; and such entry shall then be certified and signed by him the said justice or provincial judge, and be deemed evidence of the truth of the said entry according to the true intent and meaning thereof, and shall have the same force and effect to all intents and purposes as if the same had been made in due and regular time and form, agreeable to the laws of this Province: Provided always, that in all cases where the register of any parish or of any protestant church or congregation cannot be found, or where none has ever been kept, nothing in this act shall be construed to prevent the proof of baptisms, marriages or burials being made and received either by witnesses or family registers or papers or other means allowed by law, saving to the adverse party the right of impeaching or disproving such evidence: Provided always, that if any person shall knowingly and wilfully make a false oath respecting any of the matters aforesaid, and be thereof lawfully convicted, such person shall

Omission of entries in former registers in what manner to be rectified.

Proviso. Where no register has been kept nothing to prevent the proof of baptism, &c., either by witnesses or family registers, &c.

Penalty on persons taking a false oath.

Penalty on persons guilty of altering any entry respecting baptisms, &c.

Proviso.

The title of an ordinance of his Christian Majesty, of April, 1667, and of a declaration of the 9th of April, 1736, repealed in part.

Copies of this act to be transmitted to the rectors, &c., and to the church-wardens of every parish.

2 Vict. (3.)
Cap. 4.

Preamble.

Method of numbering, scaling, and

be subjected to the penalties inflicted by a statute passed in the fifth year of the reign of Queen Elizabeth for the punishment of wilful perjury.

XIV. And be it further enacted, that if any person shall after the passing of this act, make, alter, forge or counterfeit, or cause or procure to be falsely made, altered, forged or counterfeited, or act or assist in falsely making, altering or counterfeiting any entry respecting the birth, marriage or burial of any party or parties, in any register book so directed to be kept as aforesaid, or shall utter or publish as true, any false, forged, altered or counterfeited entry as aforesaid, or a copy or certificate of an entry, knowing such copy or certificate to be false, altered, forged or counterfeited, or shall willfully destroy or cause or procure to be destroyed any such register book as heretofore is directed to be kept by the priest or minister of any parish or congregation, or the clerk of any of His Majesty's courts of King's bench, respectively, every person so offending, and being thereof lawfully convicted, shall suffer such fine and imprisonment as to the court shall seem meet; provided such imprisonment be for a term not less than twelve calendar months.

XV. And be it further enacted, &c., that so much of the twentieth title of an ordinance passed by His Most Christian Majesty, in the month of April, in the year one thousand six hundred and sixty-seven, and of a declaration of His Most Christian Majesty; of the ninth of April, one thousand seven hundred and thirty-six, which relate to the form and manner in which the registers of baptisms, marriages and burials are to be numbered, authenticated or *paraphé*, kept and deposited, and the penalties thereby imposed on persons refusing or neglecting to conform to the provisions of said ordinance and declaration, are hereby repealed, so far as relates to the said registers only.

XVI. And be it further enacted, &c., that a printed copy of this act shall be transmitted to each rector, curate, vicar, or other priest or minister doing the parochial or clerical duty of any parish, protestant church or congregation, religious community and hospital in this Province, and to the church-wardens of every parish and protestant church, in the same manner as to persons who by law are entitled to such copies, to be by each of them preserved and left to their clerical successors, respectively.

An Ordinance to facilitate the manner in which Registers of Baptisms, Marriages and Burials, shall in future be numbered and authenticated, in the Province of Lower Canada.

WHEREAS it is expedient to change the manner in which the registers of baptisms, marriages and burials in this Province, are numbered and authenticated, and to make other provision with respect to the same:—Be it therefore ordained, &c., that from and after the passing of this ordinance, the registers which are now by law required to be made and kept of the several baptisms, marriages and burials within this Province, shall and may be numbered and authenticated in the manner hereinafter mentioned and directed; any law, usage or custom to the contrary notwithstanding.

II. And be it further ordained, &c., that every such register shall be numbered on the first and every subsequent leaf, by the number thereof written in words at full length, and shall be sealed with the seal of the

court of King's bench or provincial court for the district in which such register is to be kept,—which sealing shall be effected by passing a ribband or other sufficient fastening through every leaf of such register, and by bringing the ends of such ribband or fastening out and securing them under the seal of such court, inside of the binding or cover of such register ; and that such register shall be authenticated on the first page thereof by an attestation of any judge or justice who by law is authorized and empowered to authenticate the same, specifying the number of the leaves contained in such register, the purposes for which it is intended, and the day and year of sealing and of making such attestation, which shall be signed at full length by the judge or justice making the same. authenticating registers.

III. And be it further ordained, &c., that every such register shall be kept and deposited, in like manner as registers of baptisms, marriages and burials were by law required to be kept and deposited before the passing of this ordinance ; and the entries therein, and the copies thereof, when duly certified, shall have the same authenticity, force and effect in law as if such registers had been authenticated (*paraphé*) on every leaf thereof, with the initials of a judge, as heretofore used and observed in this Province. How to be kept, &c. Certified copies to have effect in law.

An Act for removing doubts respecting the construction of a certain part of the Act of the thirty-fifth year of the Reign of His late Majesty, George the Third, Chap. 4, intituled, *An Act to establish the form of Registers of Baptisms, Marriages and Burials, to confirm and make valid in law the Register of the Protestant Congregation of Christ-Church, Montreal, and others which may have been informally kept, and to afford the means of remedying omissions in former Registers*, as also for removing doubts about the validity of certain Marriages herein mentioned. a 7 Geo. IV. Cap. 2.

WHEREAS the act passed, &c., (35 Geo. 3. cap. 4.) has been productive of beneficial effects, but doubts have arisen upon the construction of the following words therein, that is to say : “ And also in each of the protestant churches or congregations within this Province, there shall be kept by the rector, curate, vicar, or other priest or minister doing the parochial or clerical duty thereof ; ” and it is proper and necessary that such doubts should be removed :—Be it therefore enacted, &c., and it is hereby enacted and declared, &c., that the registers to be kept as by the abovesaid act is directed, may be and shall be kept by a rector, curate, vicar, or other priest or minister officiating, having authority to keep registers in virtue of the said act, whether in a parish regularly constituted or other place within the same, under every obligation, penalty, matter and thing regarding the same, as is and are, by the abovesaid act, enjoined and prescribed. Preamble. How registers are to be kept. Under certain penalties.

II. And whereas from the wording of the act passed (44 Geo. 3. cap. 11.) and of another act passed, &c., (1 Geo. 4. cap. 19.) doubts might be entertained respecting the validity of marriages within this Province since the passing of the said acts, celebrated by ministers or clergymen in communion with the church of Scotland :—Be it therefore further enacted, &c., that all marriages which have heretofore been or shall hereafter be celebrated by ministers or clergymen of, or in communion with the church of Scotland, have been and shall be held to be legal and valid to all intents and purposes whatsoever ; anything in the said acts or in any other act to the contrary notwithstanding. Marriages celebrated by ministers of the church of Scotland declared to be valid.

3 Will. IV. An Act to afford relief to a certain Religious Congregation at
Cap. 29. Montreal, denominated Baptists.

Preamble.

Ministers of
the baptists,
at Montreal,
enabled to keep
registers of
baptisms, &c.

WHEREAS certain individuals at Montreal, being the minister, trustees and members of the congregation of the Baptist church of that city, have by their petition to the legislature, prayed that the reverend John Gilmore, the present minister of the congregation, and the person who shall be appointed to succeed him in the pastoral office, may be authorized by legislative enactment, to record births, celebrate marriages and solemnize funeral rites, and to make registers authenticated in due form of law, for those purposes; and whereas it is equitable that these privileges should be extended to the said minister, trustees and members of the said congregation:—Be it therefore enacted, &c., that it shall be lawful for the said John Gilmore, or any minister for the time being of the said congregation, chosen and elected according to the rules and regulations of the said congregation, to obtain, have and keep (subject always to the penalties by law in this behalf provided) registers duly authenticated according to law, of all such marriages, births and burials as may be performed or take place under the ministry of such minister,—which registers, the necessary legal formalities as by law already provided in relation to registers of the like nature being observed, shall to all intents and purposes have the same effect at law as if the same had been kept by any minister in this Province of the church of England or Scotland; any law to the contrary notwithstanding.

Minister to be
a subject of
His Majesty,
and take the
oath of allegi-
ance.

II. Provided always, and be it further enacted, &c., that the minister of the said congregation shall not be entitled in any respect to the benefit of this act, unless he shall be a subject of His Majesty, and shall have taken the oath of allegiance before a judge of the court of King's bench of the said district of Montreal, (which oath such judge is hereby authorized to administer); and a certificate of the taking of such oath shall be made by the prothonotary of the said court in duplicate, and signed by the said judge, whereof one copy shall be filed of record in the office of the said prothonotary, and the other shall be delivered to the person taking such oath; and the said prothonotary shall be authorized to receive for such certificate and the duplicate thereof, and for fying the same, two shillings and six pence, currency, in the whole, and no more.

Saving of the
King's right,
&c.
* *Sic.* But
"excepté" in
the French.
Public act.

III. And be it further enacted, &c., that nothing herein contained shall affect or be construed to affect in any manner or way whatsoever, the rights of His Majesty, His Heirs and Successors, or of any body politic or corporate, or of any person or persons, such only* as are herein mentioned.

IV. And be it further enacted, &c., that this act shall be a public act, and as such shall be judicially taken notice of by all judges, justices of the peace, and all others whom it shall concern, without being specially pleaded.

4 Will IV. An Act for the relief of the Congregational Societies in this
Cap. 19. Province.

Preamble.

WHEREAS certain protestant inhabitants of this Province denominating themselves, *Members of congregational societies*, have by divers petitions by them presented to the legislature, prayed that their present ministers and the persons who may hereafter succeed them as such, being duly ordained and being subjects of His Majesty, should be duly authorized to solemnize marriages, administer baptism and inter the dead,

and to keep registers authenticated in due form of law for that purpose ; and whereas it is equitable that the prayer of their said petitions should be granted :—Be it therefore enacted, &c., that it shall be lawful for any regularly ordained minister of any *Congregational society* in the Province, having a fixed and permanent congregation of protestant christians composing such society, to obtain, have, and keep (subject to all penalties by law in this behalf provided) registers duly authenticated according to law, of all marriages, baptisms and burials, as may be performed or take place under the ministry of such minister ; and such registers (the necessary legal formalities as by law already provided in relation to registers of like nature being observed) shall to all intents and purposes have the same effect in law, as if the same had been kept by any minister in this Province ; any law to the contrary notwithstanding.

Ministers of the congregational societies may keep registers of marriages, baptisms and burials.

II. Provided always, and be it further enacted, &c., that no minister of any such *congregational society*, shall be entitled to the benefit of this act, unless he shall have taken the oath of allegiance before a judge of the court of King's bench for the district in which he shall reside, (which oath such judge is hereby authorized and required to administer ;) and a certificate of the taking such oath shall be made by the prothonotary of the said court in duplicate, and signed by the judge, and one copy of such certificate shall be filed of record in the office of such prothonotary, and the other shall be delivered to the person taking such oath ; and for such certificate and the duplicate thereof, and for filing the same, the prothonotary shall be entitled to two shillings and six pence, currency, and no more ; nor shall any such minister be entitled to the benefit of this act, unless he shall at the time of taking such oath as aforesaid, produce to the judge who shall administer the same, the certificate of his ordination,* and of the invitation or call to become their minister, by him received from his congregation, and of his installation as such minister,* or legally attested copies of such documents respectively ; and all such documents shall be copied into each register to be kept by such minister under the authority of this act, and the copies so made therein certified to be correct by the prothonotary before such register shall be authenticated by him or by any judge of the court : nor shall any such minister be entitled to the benefit of this act, unless he shall at the time of taking the oath aforesaid, give security in the sum of one hundred pounds, currency, jointly and severally with two good and sufficient sureties, before and to the satisfaction of the judge who shall administer such oath, that whenever he shall, by death or otherwise, cease to be the minister of such congregation, each and every register not previously deposited in the prothonotary's office in which it ought by law to be deposited, shall be so deposited within two months after he shall have ceased to be such minister.

Ministers to take the oath of allegiance.

* Not inserted in 6 Will 4. c. 50 or 2 Vict. (3.) c. 17.

And to give security.

III. Provided always, and be it further enacted, &c., that whenever the connection between any such minister and the said congregation shall cease, the duplicate of the register shall be the property of the said congregation and shall be deposited with the trustees thereof, to be kept by the successor of such minister for the use of the said congregation.

The duplicate of the register to be the property of the congregation.

IV. And be it further enacted, &c., that the registers which shall have been so kept, and the several entries made therein according to the laws in force in this Province, as well as authentic copies of the entries therein made, shall to all intents and purposes be good and available in law as if the said register had been kept pursuant to the act, &c., (35 Geo. 3 cap. 4.)

Registers properly kept to be valid in law.

Proviso. Provided always, that all and every the regulations and requirements of the said act with respect to the registers therein mentioned, be also observed with respect to the registers to be kept pursuant to this act.

Ministers to comply with the act 35 Geo. 3. c. 4. V. Provided always, and be it further enacted, &c., that the ministers keeping registers pursuant to this act, shall in all respects comply with and be governed by the above recited act, and shall in case of disobedience to the said act be liable to the penalties in like cases provided by the said act, which penalties shall also be recoverable, paid, applied and accounted for,

Penalty. in the same manner as the penalties by the said act imposed are thereby directed to be paid, applied and accounted for.

Public act. VI. (*Is the same as sect. 4 of 3 Will. 4. cap. 29.*)

4 Will. IV. Cap. 20. An Act for the relief of the Members of the Free-will Baptist Church, in the Township of Stanstead.

Preamble. WHEREAS the reverend Abial Moulton, minister of the Free-will Baptist church, in the township of Stanstead, and divers inhabitants of the said township, being communicants and members of the said church, have by their petition to the legislature, prayed that the said reverend Abial Moulton and the person who shall succeed him in the pastoral office, may be authorized by legislative enactment to record births, celebrate marriages and solemnize funeral rites, and to keep registers authenticated in due form of law for those purposes : and whereas it is equitable that the prayer of the said petition should be granted :—Be it therefore enacted, &c., that it shall be lawful for the said reverend Abial Moulton, or any minister for the time being of the said church, chosen and appointed according to the rules and regulations thereof, to obtain, have and keep (subject always to the penalties by law in this behalf provided) registers duly authenticated according to law, of all such marriages, births and burials as shall be performed or take place under the ministry of such minister ; and the registers so kept (the necessary legal formalities as by law already provided in relation to registers of like nature being observed) shall to all intents and purposes have the same effect at law, as if the same had been kept by any priest or minister of religion in this Province ; any law to the contrary notwithstanding.

Ministers to take the oath of allegiance, &c. II. Provided always and be it further enacted, &c., that no minister of any such congregation, shall be entitled to the benefit of this act, unless, &c., (*the rest of this section is the same as sect. 2 of 4 Will. 4. cap. 19.*)

Duplicates. III. (*Is the same as sect. 3 of 4 Will. 4. cap. 19.*)

Registers to be valid. IV. (*Is the same as sect. 4 of 4 Will. 4. cap. 19.*)

35 Geo. 3. c. 4. to be observed. V. (*Is the same as sect. 5 of 4 Will. 4. cap. 19.*)

Rights saved. VI. (*Is the same as sect. 3 of 3 Will. 4. cap. 29.*)

Public act. VII. (*Is the same as sect. 4 of 3 Will. 4. cap. 29.*)

2 Will. IV. Cap. 51. An Act to provide for the proof of the solemnization of Marriages, and for the proof of certain Baptisms and Burials, in the Inferior District of Gaspé.

Preamble. WHEREAS in the inferior district of Gaspé many marriages have been solemnized and many baptisms and burials performed of which no record has been preserved, whereby individuals might hereafter suffer ma-

terial injury to their rights and property ; and that it is expedient to provide a mode of legally ascertaining the solemnization of such marriages and of proving such baptisms and burials :—Be it therefore enacted, &c., that any person intending to cause the solemnization of any marriage or the performance of any baptism or burial, of which no record exists, to be legally ascertained, may, within five years from and after the passing of this act, upon petition to the judge of the inferior district of Gaspé, be admitted to make proof before the said judge of such solemnization and of the fact of such baptisms and burials, by the affidavit of two or more credible witnesses.

How and with-
in what time
such mar-
riages, &c.,
may be proved.
See Tables.

II. And be it further enacted, &c., that the provincial judge of the said inferior district, upon approving such petition, shall make an order, copy whereof and of the petition shall be served upon the clergyman of the church of England, of Scotland, of Rome, or of any other christian congregation as the case may be, requiring him to produce his register of marriages, baptisms and burials before the said provincial judge, who, upon proof being made in the manner hereinafter provided, shall order that the prothonotary or clerk of the provincial court for the said district, do make an entry of record in the said register of such proof of the solemnization of such marriage, baptism or burial having been made pursuant to this act : Provided always, that such clergyman shall not be required or bound to carry or produce his register as aforesaid, out of or beyond the limits of his ordinary pastoral charge.

The judgemay
make an order,
to be served on
the clergyman,
requiring him
to produce his
register.

Provide.

III. And be it further enacted, &c., that every such entry of record shall be signed by the provincial judge, and by the persons making the said affidavit, unless such persons be unable to sign, in which case an entry shall be made in the said register of the fact of such inability ; and that the said prothonotary or clerk shall make a like entry in the register of marriages, baptisms and burials deposited in the office of the provincial court for the said district in the manner above mentioned.

Entry of re-
cord by whom
to be made and
signed.

IV. And be it further enacted, &c., that every such entry of record shall avail and have the same force and effect, as if the same had been made at the time and in the manner and form by law provided.

Effect of such
entry.

V. And be it further enacted, &c., that any person of the full age of twenty-one years and in possession of his civil rights, may be a competent witness to prove such marriage, baptism or burial, whether related by consanguinity or by affinity to any person whose marriage, baptism or burial is to be proved by virtue of this act, or not : Provided nevertheless that neither of the parties to any marriage, shall be a competent witness to prove his or her own marriage.

Who may be
competent wit-
nesses to prove
such mar-
riages.
Provide.

VI. And be it further enacted, &c., that two witnesses sworn and examined before the provincial judge, shall be a sufficient number to prove any such marriage, baptism or burial, and that the prothonotary of the said court shall reduce their testimony to writing, and that the affidavits so taken shall remain of record in the office of the said court.

Two witnesses
required.

VII. And be it further enacted, &c., that any person wilfully swearing falsely in any such affidavit respecting the solemnization of any marriage or the proof of any baptism or burial, shall, on being thereof lawfully convicted, be deemed and taken to be guilty of wilful and corrupt perjury.

Penalty on per-
sons swearing
falsely.

VIII. *Fees on entry and affidavit. It could have no effect after the end of the five years.*

9 Geo. IV.
Cap. 75.

An Act to extend certain Privileges therein mentioned to persons professing the Jewish Religion and for the obviating certain inconveniences to which others of His Majesty's Subjects might otherwise be exposed.

Preamble.

Prothonotaries to keep registers of British subjects, being Jews, resident in the Province, and above 21 years of age.

WHEREAS serious inconveniences are experienced by persons professing the Jewish religion, being British subjects resident in this Province, from their disability under the existing laws to have and keep authentic registers of the births, marriages and burials, occurring among them, which disability may injuriously affect the interests of others of His Majesty's subjects throughout the Province, and particularly those of such persons as may derive their titles to real property from persons so professing the Jewish religion; and whereas it is expedient that there should be in each of the districts of this Province, fit and proper places of worship and of burial, for the use of such persons:—Be it therefore enacted, &c., that the prothonotaries of the courts of King's bench for the districts of Quebec, Montreal and Three-Rivers, respectively, shall, immediately after the passing of this act, open and keep, in each of the said districts, a register to remain of record, wherein any person residing in the district in which such register shall be kept, being a British subject professing the Jewish religion, and above the age of twenty-one years, may inscribe his name, age, addition and place of residence, after oath by him made before the said prothonotaries or any of them that he believes himself to be of the full age of twenty-one years, and that he is a British subject professing the Jewish faith.

II. *Omitted.*—*Meetings may be called in each district, for the elections of trustees under this act.*

III. *Omitted.*—*Five registered Jews may be elected as such trustees.*

IV. *Omitted.*—*They may choose a chairman and secretary.*

V. *Omitted.*—*Prothonotary of the district to register the names of the trustees elected vacancies; how to be filled up.*

VI. *Omitted.*—*Trustees may hold land to the extent of five arpents as a burial ground and for building a house for the minister.*

Licensed ministers of the Jewish religion to keep registers in duplicate.

VII. And be it further enacted, &c., that from and after the passing of this act, every minister of the Jewish religion acting as such within the Province, being previously licensed by the Governor, Lieutenant-Governor, or person administering the government for the time being, shall keep a register in duplicate of all marriages and burials performed by him, and of all births which he may be required to record in such register by any person professing the Jewish religion; and that all the provisions of a certain act, &c., (*55 Geo. 3. cap. 4.*) shall be and the same are hereby extended to all registers hereafter to be kept by virtue of this act: Provided, that before any minister of the Jewish religion shall be admitted to keep the register as afore mentioned, he shall be required to present a petition to the Governor, Lieutenant-Governor, or person administering the government for the time being, subscribed by the chairman and trustees of the district for which he is to act, setting forth his name and addition and praying to be licensed to keep a register for the district therein mentioned; and it shall and may be lawful to and for the Governor, Lieutenant-Governor, or person administering the government for the time being to grant the prayer of the petition if he shall see fit, and to issue his licence under his hand and seal to the said

35 Geo. 3. cap. 4. extended to such registers. Proviso: the ministers shall obtain a licence from the Governor, &c.

petitioner, to have and keep registers for the purposes aforesaid ; any law, usage or custom to the contrary notwithstanding.

VIII. And be it further enacted, &c., that all provisions of the said last mentioned act, concerning such registers as may have been informally kept, as well as those concerning the omission of any matter which ought to have been recorded in any such register, shall be and the same are hereby extended to such registers as may heretofore have been kept by any minister of the Jewish religion, officiating in this Province.

Certain provisions of the said act extended to registers kept by Jewish ministers.

IX. And be it further enacted, &c., that all persons of the Jewish religion, may within three months next after the election of the said trustees cause the birth of their children or their death to be enregistered, with the same effect to all intents and purposes, as if the same had been done at their birth or death.

After the election of the trustees, the birth or death of children to be registered.

X. And be it further enacted, &c., that all registers which shall hereafter be kept by any minister of the Jewish religion in this Province, according to the provisions of the act last above mentioned, as well as all certified copies of the entries made therein or in the registers kept by any minister of the said religion, officiating in this Province, before the passing of this act, or any document legally establishing the omission of any entry which ought to have been made in such registers,—shall to all intents and purposes have the same legal effect, as the register or extract (*extrait*) of any register kept by any priest or rector of the Roman catholic church, or by any minister of the protestant church in this Province, in pursuance of the said last mentioned act ; Provided always, that the regulations and requirements of the said act shall in all respects have been complied with.

Such registers, and extracts from them, declared valid in law.

Proviso.

XI. *Is the same as sect. 5 of 4 Will. 4. cap. 19.*

34 Geo. 3 c. 4. to be observed. Public act.

XII. *Is the same as sect. 4 of 3 Will. 4. cap. 29.*

An Act to extend certain privileges to the class of persons denominating themselves Methodist Protestants.

6 Will. IV. Cap. 50.

WHEREAS the protestants in this Province denominating themselves *Methodist protestants*, in connection with a conference established in the township of Dunham in this Province, called the *Methodist protestant conference*, have by their petition to the legislature, prayed that their preachers or ministers be authorized to keep, in due form of law, registers of all such baptisms, marriages and burials, as shall by such ministers or preachers, respectively, be performed ; and whereas it is just that such privileges, under certain rules and regulations, should be extended to such preachers and ministers aforesaid, for the relief and satisfaction of their several congregations throughout this Province :—Be it therefore enacted, &c., that from and after the passing of this act, it shall be lawful for the said methodist protestant preachers or ministers, in connection with the conference aforesaid styled and known as the conference of the people called methodist protestants, having a regularly established circuit with a congregation or congregations of methodist protestants under their care, to have and keep registers of baptisms, marriages and burials, according to the laws of this Province.

Preamble.

Methodist protestants, in connection with a conference in the township of Dunham, may keep registers.

II. Provided always, and be it further enacted, &c., that no minister in connection with the conference aforesaid, styled and known as the conference of the people called methodist protestants, shall be entitled to the

Minister to take the oath of allegiance, &c.

benefit of this act, unless he shall have taken the oath of allegiance before a judge of the court of King's bench, or of the Provincial court, for the district or inferior district in which he shall reside, &c., (*the rest of this section in the same as sect. 2 of 4 Will. 4. cap. 19.*)

Duplicate of registers.

III. Provided always, and be it further enacted, &c., that whenever the connection between any such minister and such congregation, or congregations shall cease, the duplicate of the register shall be the property of such congregation or congregations, and shall be deposited with the clerk thereof, to be kept by the successor of such minister, for the use of said congregation or congregations.

Registers, after the removal of minister, where to be deposited.

IV. Provided always, and be it further enacted, &c., that such register, after the removal of such preachers or ministers from the city, town, township or place in which they may respectively have officiated and have kept such registers, shall be deposited with their respective successors in office, or in case there shall be no such successors, with the prothonotary of the court of King's bench, or Provincial court, of the district or inferior district wherein such preacher or minister may have usually resided and officiated.

On removal to his former place, minister entitled to a new register.

V. Provided always, and be it further enacted, &c., that on his removal from one city, town, township or place, to another city, town, township or place in this Province, such preacher or minister shall be entitled to have and obtain a new register for the place to which he shall have removed, if none shall have been previously obtained or kept at such place by some methodist protestant preacher or minister.

Registers to be valid.
35 Geo. 3. cap. 4. to be observed.
Public act.

VI. (*Is the same as sect. 4 of 4 Will. 4. cap. 19.*)

VII. (*Is the same as sect. 5 of 4 Will. 4. cap. 19.*)

VIII. (*Is the same as sect. 4 of 3 Will. 4. cap. 19.*)

3 Vict. (3.)
Cap. 17.

An Ordinance to extend certain privileges therein-mentioned to the Ministers of the Methodist New Connexion, and the Congregations under their care.

Preamble.

WHEREAS the reverend John Addyman and the reverend John Hutchinson, ministers of the methodist new connexion, have, by their petition to His Excellency the Governor-in-chief of this Province, represented, that they have been appointed, at the last annual conference of the said methodist new connexion, held at Leeds, in the county of Yorkshire, in England, to labour as missionaries in this Province, and have established themselves as such in the seigneuries of De Léry and Lacolle, and in the township of Hemmingford, and have raised churches and formed congregations therein, and have prayed, that they, and such other ministers as shall be duly appointed at any annual conference of the said methodist new connexion, may be authorized to keep in due form of law, registers of all such baptisms, marriages and burials, as shall be by them respectively performed: and whereas it is just that such privileges should, under certain rules and regulations, be extended to the said petitioners and other ministers as aforesaid:—Be it therefore ordained, &c., that from and after the passing of this ordinance, it shall be lawful for the said reverend John Addyman and the said reverend John Hutchinson, so long as they shall remain such ministers as aforesaid, and for such other persons as may have been or may be appointed to be such ministers as aforesaid, at any annual conference of the

Members of Methodist new connexion authorized to keep registers of baptisms, &c.

said methodist new connexion, held or to be holden in England, and having a regularly established circuit, with a congregation or congregations under their care, to have and keep registers of baptisms, marriages and burials, according to the laws of this Province.

II. Provided always, and be it further ordained, &c., that no such minister as aforesaid shall be entitled to the benefit of this ordinance, unless he shall have taken the oath of allegiance before a judge of the court of King's bench, or of the provincial court, for the district or inferior district in which he shall reside, &c. (*The rest of this section is the same as section 2 of 4 Will. 4. cap. 19, except that the fee of 2s. 6d. is not mentioned.*)

III. (*Is the same as sect. 3 of 6 Will. 4. cap. 50, page 624.*)

IV. (*Is the same as sect. 4 of 6 Will. 4. cap. 50, page 624.*)

V. (*Is the same as sect. 5 of 6 Will. 4. cap. 50, page 624.*)

VI. (*Is the same as sect. 4 of 4 Will. 4. cap. 19, page 619.*)

VII. (*Is the same as sect. 5 of 4 Will. 4. cap. 19, page 620.*)

VIII. (*Is the same as sect. 4 of 3 Will. 4. cap. 29, page 618.*)

Duplicate of register.

Removal of minister.

Proviso.

Registers to be valid.

35 Geo. 3. c. 4.

to be observed.

Public act.

An Act to afford relief to a certain Religious Congregation at Montreal, denominated Presbyterians. 1 Will. IV.
Cap. 66.

WHEREAS certain protestants at Montreal, denominating themselves Presbyterians, although not regularly of the established church of Scotland, nor in connection with the same, have by their petition to the legislature, prayed that the reverend George W. Perkins, their present minister, or the person who may hereafter have the pastoral charge of the congregation to which they belong, should be duly authorized to solemnize marriages, administer baptism, and inter the dead, and to keep registers authenticated in due form of law for that purpose,—and also that they may be enabled to take and hold the land required for the site of a church or meeting house, burial ground, and dwelling-house for the use of a religious teacher or minister; and whereas, it is equitable that these privileges should be extended to the said reverend George W. Perkins, or the minister for the time being of such presbyterian congregation, and that the said congregation should be enabled to take and hold the land required for the site of a church or meeting house, burial ground, and dwelling house for the use of a religious teacher or minister:—Be it therefore enacted, &c., that it shall be lawful for the said George W. Perkins, or any minister for the time being of the said congregation, to obtain, have and keep, subject always to the penalties by law in this behalf provided, registers duly authenticated according to law, of all such marriages, baptisms and burials, as may be performed or take place under the ministry of such minister or clergyman; and which registers, the necessary legal formalities as by law already provided in relation to registers of the like nature being observed, shall to all intents and purposes, have the same effect at law as if the same had been kept by any minister in this Province of the established church of England or Scotland; any law to the contrary notwithstanding.

George W. Perkins, or other minister of the said congregation, may keep a register.

See 35 Geo. 3. cap. 4.

II. Omitted.—*The congregation may appoint trustees to take and hold land, for the uses set forth in the preamble.—See Tables.*

III. Omitted.—*Only two arpents to be so held.*

IV. *Omitted.*—*The deed of conveyance to be enregistered in the office of the prothonotary.*

V. *Omitted.*—*Former conveyances declared valid, for a like quantity of land, if registered in twelve months.*

Minister or trustees to be entitled to the benefit of this act, to be subjects of His Majesty.

VI. Provided always, and be it further enacted, &c., that the minister or trustees of the said congregation shall not be entitled in any respect to the benefit of this act, unless they shall respectively be subjects of His Majesty, and shall have severally taken the oath of allegiance, &c., (*The rest of this section is the same as sect. 2 of 3 Will. 4. cap. 29, page 618.*)

Rights saved.

VII. (*Is the same as sect. 3 of 3 Will. 4. cap. 29, page 618.*)

Public act.

VIII. (*Is the same as sect. 4 of 3 Will. 4. cap. 29, page 618.*)

3 Will. IV.
Cap. 28.

An Act for the relief of a religious Congregation in the Township of Hull, denominated Presbyterians.

Preamble.

John C. Nichols, and his successors, may keep registers of baptisms, &c.

See 35 Geo. 3.
cap. 4.

ON the petition of divers inhabitants of the township of Hull, in the county of Ottawa, calling themselves Presbyterians, praying that their minister John C. Nichols, may be authorized to keep registers of baptisms, marriages, and burials:—Be it enacted, &c., that it shall be lawful for the said John C. Nichols and his successor or successors, being regularly ordained and ministers of the said congregation, to have and keep (under the penalties by law provided in that behalf) registers duly authenticated of the baptisms, marriages and burials, which shall take place under his or their ministry; and that such registers (the requisite legal formalities with regard to registers of the like nature being observed) shall to all intents and purposes, have the same effect in law as if they had been kept by any minister of the church of England or Scotland in this Province; any law to the contrary notwithstanding.

Public act.

II. (*Is the same as sect. 4. of 3 Will. 4. cap. 29, page 618.*)

6 Will. IV.
Cap. 49.

An Act for the relief of divers Societies of Protestant Christians therein mentioned.

Preamble.

Ministers of any calvinist baptist society, free-will bap-

WHEREAS certain protestant inhabitants of this Province, denominating themselves *Members of Calvinist Baptist Societies*, and also certain other protestant inhabitants of this Province denominating themselves *Members of Free-will Baptist Societies*, and also certain other protestant inhabitants of this Province, denominating themselves *Members of Universalist Societies*, have, by divers their petitions by them respectively presented to the legislature, prayed that their present ministers and all who may succeed them as such, and all others who may hereafter be regularly installed and settled in the pastoral office over churches and societies, in connection with the said calvinist baptist, free-will baptist, or universalist societies, or either of them, being duly ordained, and being subjects of His Majesty, resident in this Province, should be duly authorized to solemnize marriages, enregister births and baptisms, and inter the dead, and to keep registers authenticated in due form of law for that purpose: And whereas it is equitable that the prayer of their said petitions should be granted:—Be it therefore enacted, &c., that it shall be lawful for any regularly ordained minister of any calvinist baptist society, free-will baptist society, or universalist society, in this Province, having a fixed and per-

manent congregation of protestant christians, composing such society, in regular standing and connection with the associations and quarterly meetings of either of the said societies, to solemnize marriages, enregister births, administer baptism, and inter the dead, and to obtain, have and keep, (subject to all penalties by law in this behalf provided,) registers duly authenticated according to law, of all such marriages, births, baptisms and burials, as may be performed or take place under the ministry of such minister; and such registers, (the necessary legal formalities, as by law already provided in relation to registers of like nature, being observed,) shall, to all intents and purposes, have the same effect in law as if the same had been kept by any priest or minister of this Province; any law to the contrary notwithstanding.

II. Provided always, and be it further enacted, &c., that no minister of any such calvinist baptist society, free-will baptist society, or universalist society, shall be entitled to the benefit of this act, unless he shall have taken the oath of allegiance before a judge of the court of King's bench, or provincial judge, or resident judge, for the district or inferior district in which he shall reside, &c. (*The rest of this section is the same as sect. 2 of 4 Will. 4. cap. 19, 619.*)

III. (*Is the same as sect. 3 of 6 Will. 4. cap. 50, page 624.*)

IV. (*Is the same as sect. 4 of 4 Will. 4. cap. 19, page 619.*)

V. (*Is the same as sect. 5 of 4 Will. 4. cap. 19, page 620.*)

VI. (*Is the same as sect. 4 of 3 Will. 4. cap. 29, page 618.*)

Removal of ministers.

Registers to be valid.

35 G. 3. c. 4. to be observed.

Public act.

An Act to enable the regularly ordained Ministers of the United Associate Synod of the Secession Church of Scotland, to keep authenticated Registers according to Law.

WHEREAS certain members of the united associate synod of the secession church of Scotland, have, by their petition to the legislature, prayed that their ministers may be duly authorized to keep registers, authenticated in due form of law, of marriages, baptisms and burials; And whereas it is equitable that these privileges should be extended to them and to other regularly ordained ministers of the same persuasion:—Be it therefore enacted, &c., that it shall be lawful for every regularly ordained minister of the united associate synod of the secession church of Scotland, having a permanent and fixed congregation, to obtain, have and keep, (subject always to the penalties by law in this behalf provided,) registers duly authenticated according to law, of all such marriages, baptisms and burials, as may be performed or take place under the ministry of such minister or clergyman; and which registers, (the necessary legal formalities, as by law already provided in relation to the registers of the like nature, being observed,) shall, to all intents and purposes, have the same effect in law as if the same had been kept by any minister in this Province, of the church of England or of Scotland; any law to the contrary notwithstanding.

II. (*Is the same as sect. 4 of 6 Will. 4. cap. 50, page 624.*)

III. (*Is the same as sect. 4 of 4 Will. 4. cap. 19, page 619.*)

IV. (*Is the same as sect. 5 of 4 Will. 4. cap. 19, page 620.*)

V. (*Is the same as sect. 4 of 3 Will. 4. cap. 29, page 618.*)

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Removal of ministers.

Registers to be valid.

35 G. 3. c. 4. to be observed.

Public act.

3 Will. IV. Cap. 27.

Preamble.

Ministers of the united associate synod of the secession church of Scotland may keep registers of marriages, &c.

See 35 Geo. 3. cap. 4.

4 Will. IV. An Act for the relief of the Religious Society called the
Cap. 21. "Universalist Society," in the Township of Ascot and the
neighbourhood thereof.

Preamble.

Minister of the
Universalists
may keep re-
gisters of mar-
riages, bap-
tisms and
burials, &c.

See 35 Geo. 3.
cap. 4.

Ministers to
take the oath
of allegiance.

Duplicate of
register.
Registers to be
valid.
35 Geo. 3. c. 4.
to be observed.
Rights saved.
Public act.

WHEREAS divers inhabitants of the township of Ascot and other townships thereunto adjacent, being of that class of christians denominated *Universalists*, have by their petition to the legislature prayed that their minister, the reverend Joseph Ward, and his successors in the pastoral office, may be authorized to keep registers of baptisms, marriages and burials, and it is equitable that the prayer of their petition be granted:—Be it therefore enacted, &c., that it shall be lawful for the said reverend Joseph Ward, and his successor or successors, being regularly ordained and appointed ministers of the universalist society, in the said township of Ascot and the neighbouring townships, to have and keep, under the penalties by law provided in that behalf, registers duly authenticated of the baptisms, marriages and burials, which shall take place under his or their ministry; and the registers so kept, (the requisite legal formalities with regard to registers of the like nature being duly observed,) shall to all intents and purposes have the same effect in law, as if they had been kept by any priest or minister now authorized by law to keep such register in this Province; any law to the contrary notwithstanding.

II. Provided always and be it further enacted, &c., that no minister of any such universalist society, shall be entitled to the benefit of this act, unless he shall have taken the oath of allegiance before the judge of the provincial court of the district of Saint Francis, &c. (*The rest of this section is the same as sect. 2 of 4 Will. 4. cap. 19. page 619.*)

III. (*Is the same as sect. 3 of 4 Will. 4. cap. 19, page 619.*)

IV. (*Is the same as sect. 4 of 4 Will. 4. cap. 19, page 619.*)

V. (*Is the same as sect. 5 of 4 Will. 4. cap. 19, page 620.*)

VI. (*Is the same as sect. 3 of 3 Will. 4. cap. 29, page 618.*)

VII. (*Is the same as sect. 4 of 3 Will. 4. cap. 29, page 618.*)

9 Geo. IV.
Cap. 76.

An Act to extend certain privileges therein mentioned to the Religious Classes of Persons denominating themselves Wesleyan Methodists.

Preamble.

Wesleyan
preachers, li-
censed by the
Governor, may
keep registers
of baptisms,
marriages, &c.

WHEREAS the protestants in this Province denominating themselves *Wesleyan Methodists*, in connection with a certain society in Great Britain styled *The Conference of the People called Methodists*, have by their petition to the legislature prayed that their preachers or ministers be authorized to keep in due form of law, registers of all such baptisms, marriages and burials, as shall by such preachers or ministers be respectively performed; and whereas it is just that such privileges, under certain rules and regulations, should be extended to such preachers or ministers aforesaid for the relief and satisfaction of their several congregations throughout the Province:—Be it therefore enacted, &c., that from and after the passing of this act, it shall be lawful for the said Wesleyan preachers or ministers in connection with the society in Great Britain, styled and known as *The Conference of the People called Methodists*, being previously licensed thereto by the Governor, Lieutenant-Governor, or person administering the

government for the time being, to have and keep registers and burials, according to the laws of this Province.

II. Provided always, and be it further enacted, &c., any of the privileges by this act conferred, the preacher to enter upon the exercise thereof in this Province, the Governor, Lieutenant-Governor, or person administering the time being, represent that they are Wesleyan, in connection with and duly recognized as being so by the conference of the people called methodists, accompanying the same with the certificate of ordination, and a certificate of two other preachers or ministers of the same denomination residing in the Province and performing their duties therein, that the person or persons applying is or are in fact a preacher or minister or preachers or ministers as aforesaid, in connection with and recognized as being so by the said conference, and, as such, admissible to the exercise of the privileges granted by this act.

III. And be it further enacted, &c., that it shall and may be lawful to and for the Governor, Lieutenant-Governor, or person administering the government, for the time being, to grant the prayer of the said petition, if he shall see fit, and to issue his licence under his hand and seal to the said petitioner, to have and keep registers for the purposes aforesaid; any law, usage or custom to the contrary notwithstanding.

IV. (*Is the same as sect. 4 of 6 Will. 4. cap. 50, page 624.*)

V. Provided always, and be it further enacted, &c., that it shall not be incumbent on any such preacher or minister to present a petition as hereinabove required, more than once during his residence or ministry in this Province; and that on removal from one city, town, township or place, to another city, town, township or place in this Province, such preacher or minister shall be entitled to have and obtain a new register for the place to which he shall have removed, if none shall have been previously obtained or kept at such place by some Wesleyan preacher or minister.

VI. (*Is the same as sect. 4 of 4 Will. 4. cap. 19, page 619.*)

VII. (*Is the same as sect. 5 of 4 Will. 4. cap. 19, page 620.*)

Registers, where to be deposited.

A preacher need not present a petition more than once during his residence and ministry.

Registers to be valid.

35 Geo 3. c. 4. to be observed.

36. RELIGIOUS CONGREGATIONS, LANDS HELD BY.

An Ordinance to suspend an Act passed in the tenth and eleventh years of the Reign of His late Majesty George the Fourth, intituled, *An Act for the relief of certain Religious Congregations therein mentioned*, and to make other Legislative Provision in the place thereof.

WHEREAS it is expedient to enable the various religious societies of all denominations of christians in this Province, to hold, as proprietors thereof, the ground required by them for the site of the churches, chapels, meeting-houses, burial grounds, dwelling-houses for their priests, ministers, ecclesiastics, or religious teachers, and school-houses, and the appurtenances thereunto which may be necessary for the said several purposes, under the control of the said religious societies, who have heretofore been unable to hold and possess immoveable property for ever, for want of a cor-

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All
per
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2 v. ct. (3.)
Cap 26.

Preamble.

4 Will. IV.
Cap. 21.

Lands in
possession of
religious socie-
ties, to be held
in mortmain,
for the benefit
of such socie-
ties.

porate capacity ; And whereas the provisions and enactments made in this behalf by the provincial statute, passed, &c., (10 & 11 Geo. 4. cap. 58.) have been found by experience to be inadequate to the attainment of the purposes for which the said act was passed :—Be it therefore ordained, &c., that all lands, of what extent soever they may be, which shall be in the possession of any parish, mission, congregation or society of christians, of any denomination whatever, by virtue of a deed vesting in them the property thereof, by sale, donation or exchange, or by legacy, or by prescription legally acquired, or in trust, or under any other title whatsoever, at the time of the publication of this ordinance, shall be deemed to be held in mortmain for ever, by and for the benefit of such parish, mission, congregation or society of christians, and shall become their incommutable property, in so far as their respective titles may extend and be valid, by virtue of this ordinance ; any law, usage, custom or seigniorial right, to the contrary notwithstanding.

The titles to
such lands,
and a descrip-
tion and
measurement
thereof, to be
enregistered in
the office of the
prothonotary
for the district.

II. Provided always, and be it further ordained, &c., that the rectors or officiating clergymen, together with the church-wardens of such parish, mission, congregation or society of christians, or the trustees to whom the care and administration of such lands shall be confided, shall cause the titles thereto, and a description and measurement thereof made by a sworn surveyor, to be enregistered within two years from the publication of this ordinance, in the office of the prothonotary of the court of King's bench for the district in which such lands are situate ; or in default of such title, shall cause to be enregistered, in the manner aforesaid, authentic certificates of the peaceable possession of such lands, during ten years, (such certificates being attested by seven persons, being proprietors or holders of real property in the place or in the neighbourhood thereof,) with a description and measurement of such lands, made as aforesaid by a sworn surveyor : Provided also, that such titles or certificates shall contain the names and additions which such parish, mission, or religious congregation, and the rector, missionary, or officiating clergyman, minister, ecclesiastics or religious teachers, church-wardens, trustees or other administrators, shall have taken for themselves and their successors in office, to the end that by such name they may hold and possess such lands for ever, and institute and defend all actions at law, necessary for the conservation of their rights therein.

Proviso.

Manner in
which lands
may hereafter
be acquired.

III. And be it further ordained, &c., that whenever any parish, mission, congregation, or society of christians, of any denomination whatsoever, not being a parish recognized by the civil law of this Province, shall hereafter be desirous of acquiring lands for all or any of the purposes aforesaid, it shall be lawful for such parish, mission, congregation or society of christians, to appoint one or more trustees, to whom and to whose successors (to be appointed in the manner set forth in the deed of grant, concession or conveyance,) the lands necessary for each and every of the purposes aforesaid, may be conveyed ; and such trustees and their successors for ever, by the name by which they and the congregation on whose behalf they act, shall be designated in such deed of grant, concession or conveyance, shall be capable of acquiring by purchase, donation, exchange, or as a legacy, and of holding and possessing, the lands so acquired, and of instituting and defending all actions at law, for the conservation of such lands and of their rights therein.

Proviso.

Provided always, that in every case wherein a parish established by law, shall be concerned, the foregoing provisions concerning trustees, shall extend to the rector and church-wardens of such parish ; and whenever any such

religious congregation shall be constituted a parish, in the manner by law provided, the property of all lands so acquired as aforesaid, shall be vested in such parish, and the administration and control thereof shall pass from the trustees aforesaid, into the hands of the *Fabrique* or rector of such parish, or of other the person, persons, or body to whom the same should pass, according to the rules and regulations of the church to which such parish may belong : Provided nevertheless, that where any congregation or society of christians shall hold property, as aforesaid, within any parish established by law at the time of the passing of this ordinance, the property so held by such congregation or society of christians shall not be vested in such parish, but the administration and control thereof shall remain with the said trustees of such congregation or society of christians, to be held in mortmain for ever, for the benefit of such congregation or society of christians, as aforesaid ; any clause, matter or thing herein contained, to the contrary notwithstanding.

IV. Provided always, and be it further ordained, &c., that such trustees, or such rectors and church-wardens, shall, within two years after they shall have acquired such lands, conform to the foregoing provisions of this ordinance concerning the enregistration to be made with regard to such lands at the office of the prothonotary ; for which enregistration the prothonotaries of the several districts, respectively, shall be entitled to a fee not exceeding six pence, currency, for every hundred words, being the fees allowed for a similar service by the act hereby suspended : Provided also, that the quantity of land so acquired for the purpose aforesaid, within the walls of the cities of Quebec and Montreal, respectively, shall not, in the whole, exceed one arpent, whereof no part shall be used as a burial ground, excepting for ecclesiastics and religious persons of either sex, or for private vaults for the donors of the ground,—and out of the walls and within the limits of the said cities, shall not exceed eight arpents in superficies ; and the quantity of land so held in any other place for the use of each parish, mission, congregation or religious society, shall not exceed two hundred English acres : Provided, that nothing herein contained shall extend or apply to any parish, rectory or parsonage, lawfully erected and constituted, or which may hereafter be lawfully erected and constituted, according to the establishment of the church of England.

V. Provided always, and be it further ordained, &c., that nothing in this ordinance contained shall weaken, diminish, extinguish or affect, nor shall be construed to weaken, diminish, extinguish or affect, in any manner, the rights or privileges of Her Majesty, Her Heirs or Successors, or of any seignior or seigniors, or of any person or persons, body politic or corporate, whatever, (except such rights as are hereby expressly altered or affected,) but that Her Majesty, and all and every seignior or seigniors, or other persons, bodies politic and corporate, shall (as aforesaid) have and exercise the same rights as they, and each of them, had before the passing of this ordinance, to all intents and purposes whatsoever, and as amply as if this ordinance had never passed.

VI. And be it further ordained, &c., that the act hereinbefore mentioned, passed, &c., (10 & 11 Geo. 4. cap. 58.) shall be, and it is hereby suspended during the continuance of this ordinance in force.

See Tables.

37. SEMINARY OF ST. SULPICE.

3 & 4 Vict.
Cap. 30.

An Ordinance to incorporate the Ecclesiastics of the Seminary of Saint Sulpice, of Montreal, to confirm their title to the Fief and Seigniority of the Island of Montreal, the Fief and Seigniority of the Lake of the Two Mountains, and the Fief and Seigniority of Saint Sulpice, in this Province, to provide for the gradual extinction of Seigniorial Rights and Dues, within the Seigniorial limits of the said Fiefs and Seigniories, and for other purposes.

Preamble.

This ordinance, although local, is, from its nature, of so general an interest, that it has been thought right to insert it entire,

WHEREAS the Ecclesiastics of the seminary of Saint Sulpice, established at Montreal, in this Province, have, since the capitulation made and signed at Montreal aforesaid, on the eighth day of September, which was in the year of Our Lord one thousand seven hundred and sixty, held, possessed and enjoyed, and do still hold, possess and enjoy the fief and seigniority of the Island of Montreal and its dependencies,—the fief and seigniority of the Lake of the Two Mountains,—and the fief and seigniority of Saint Sulpice,—and their several dependencies,—all situated in the said district of Montreal: And the said Ecclesiastics have alleged and do allege, that they, so as aforesaid, have held, possessed and enjoyed, and still do hold, possess and enjoy all and singular the said fiefs and seigniories, and their dependencies, rightfully, and as the true and lawful owners of the same; And whereas doubts and controversies have arisen touching the right and title of the said Ecclesiastics of the said seminary of Saint Sulpice of Montreal, in and to the several fiefs and seigniories, and their dependencies, of which they have, as aforesaid, been in possession since the said capitulation, and it has been contended that all and every the said fiefs and seigniories became, by the conquest of this Province by the British arms, vested, and still remain vested, in the Crown; And whereas Her Majesty, desirous that all such doubts and controversies should be removed and terminated, and that Her faithful subjects, holding lands within the seigniorial limits of the said fiefs and seigniories, should be enabled to effect and obtain the gradual extinction of all seigniorial rights, dues and duties, payable or performable for or by reason of such their lands, has, of Her own mere will and proper motion, graciously signified Her Royal pleasure, that the right and title of the said Ecclesiastics of the seminary of Saint Sulpice of Montreal, in and to the said several fiefs and seigniories, should be absolutely confirmed, under and subject to the terms, provisos, conditions and limitations hereinafter contained and expressed, which said terms, provisos, conditions and limitations have been fully and formally agreed to and accepted by the said Ecclesiastics of the said seminary of Saint Sulpice of Montreal; And whereas for fulfilling Her Majesty's gracious pleasure and intentions in the said behalf, and for other the purposes aforesaid, it is expedient and necessary that the said Ecclesiastics of the seminary of Saint Sulpice, of Montreal, should be constituted an ecclesiastical corporation, or body corporate and ecclesiastical, (*communauté ecclésiastique*,) for the purposes hereinafter mentioned:—Be it therefore ordained, &c., that Joseph Quiblier, Jean Louis Melchoir Sauvage du Châtillonet, Jean Richard, Joseph Comte, and others, who now are members of the said seminary of Saint Sulpice of Montreal, and compose the body thereof, and their ecclesiastical successors, named and appointed by and according to the rules and regulations which now are or hereafter may be, in force for the

The members of the seminary of Saint Sulpice, and their successors, created an ecclesiastical corporation.

government of that institution or body,—shall be, and they are hereby made, constituted and declared to be an ecclesiastical corporation or body corporate and ecclesiastical, (*communauté ecclésiastique*,) in name and in deed by the name of *The Ecclesiastics of the Seminary of Saint Sulpice of Montreal*; and that by the same name they shall have perpetual succession, by admitting and electing new members, according to the rules of their foundation and the practice by them heretofore followed, (subject always to the provisions hereinafter made touching such rules and practice,) and shall have a common seal, with power to alter, break and make new the same, when and as often as they shall judge it expedient so to do; and that they and their successors, by the same name, may sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in all courts of record and places of judicature and jurisdiction within the said Province, and do, perform and execute all and every lawful acts and things, in as full and ample manner and form, to all intents, constructions and purposes, as any other ecclesiastical corporation or body corporate and ecclesiastical, by law may or ought to do: Provided always, that no rules, bye-laws or regulations, or practice, for or concerning the admission and election of new members, or the temporal government of the said corporation or its successors, shall, after the expiration of six months from the passing of this ordinance, be valid, binding or effectual, unless they shall have been reduced to writing, and shall have been laid before the Governor, Lieutenant-Governor, or person administering the government of this Province, for the time being, and shall have been by him expressly approved, confirmed and ratified.

To have perpetual succession and a common seal.

May sue and be sued, &c.

No rules, bye-laws, &c., to be valid, after the expiration of six months from the passing of this ordinance, unless approved by the Governor.

II. And be it further ordained, &c., that the right and title of the said Ecclesiastics of the seminary of Saint Sulpice of Montreal, in and to all and singular the said fiefs and seigniories of the Island of Montreal,—of the Lake of the Two Mountains,—and of Saint Sulpice,—and their several dependencies,—and in and to all seigniorial and feudal rights, privileges, dues and duties arising out of and from the same,—and in and to all and every the domains, lands, reservations, buildings, messuages, tenements and hereditaments, within the said several fiefs and seigniories, now held and possessed by them as proprietors thereof,—and also in and to all monies, debts, *hypothèques*, and other real securities, arrears of *lods et ventes, cens et rentes*, and other seigniorial dues and duties, payable or performable by reason of lands holden by *censitaires*, tenants and others, in the said several fiefs and seigniories,—goods, chattels and moveable property whatsoever, now due, owing, belonging or accrued to the said Ecclesiastics of the said seminary of Saint Sulpice of Montreal, or which may hereafter become due and owing, or accrue and belong to them, or to the said ecclesiastical corporation hereby constituted, or their successors, by reason of any lands and tenements holden in the respective *censives* of the said several fiefs and seigniories, with all and every the rights, privileges and appurtenances thereunto respectively belonging, or in any wise appertaining,—shall be and they are hereby confirmed and declared good, valid and effectual in the law; and the corporation hereby constituted, shall and may have, hold and possess the same as proprietor thereof, as fully, in the same manner, and to the same extent, as the Ecclesiastics of the seminary of Saint Sulpice of the Fauxbourg of Saint Germain Lez Paris, or the seminary of Saint Sulpice of Montreal, according to its constitution, before the eighteenth day of September which was in the year one thousand seven hundred and fifty-nine, or either or both of the said seminaries, might or could have done, or had a right to do, or might or could

The right and title of the members of the said seminary to the fiefs and seigniories of the Island of Montreal, Lake of Two Mountains, and of Saint Sulpice confirmed.

Purposes for which the said fiefs, &c., are to be held by the corporation.

have held, enjoyed or applied the same, or any part thereof, previously to the last mentioned period,—and to and for the purposes, objects and intents following, that is to say :—the cure of souls within the parish (*la desserte de la paroisse*) of Montreal,—the mission of the Lake of the Two Mountains, for the instruction and spiritual care of the Algonquin and Iroquois Indians,—the support of the *petit séminaire* or college at Montreal,—the support of schools for children within the parish of Montreal,—the support of the poor, invalids and orphans,—the sufficient support and maintenance of the members of the corporation, its officers and servants,—and the support of such other religious, charitable and educational institutions as may, from time to time, be approved and sanctioned by the Governor, Lieutenant-Governor, or person administering the government of the Province, for the time being,—and to or for no other objects, purposes or intents whatsoever.

The said fiefs and seigniories vested in the corporation.

III. And be it further ordained, &c., that all and singular the said fiefs and seigniories of the island of Montreal,—of the lake of the Two Mountains,—and of Saint Sulpice,—and all and every the said domains, lands, buildings, messuages, tenements and hereditaments, seigniorial dues and duties, monies, debts, *hypothèques*, real securities, arrears of *lods et ventes*, *cens et rentes*, and other seigniorial dues, goods, chattels and moveable property whatsoever, shall be, and the same are hereby vested in the said corporation of the Ecclesiastics of the Seminary of Saint Sulpice of Montreal, hereby constituted, and their successors, to be had, held, possessed and enjoyed by the said Ecclesiastics of the seminary of Saint Sulpice of Montreal, and their successors, as the true and lawful owners and proprietors of the same, and of every part and parcel thereof, to the only use, benefit and behoof of the said seminary or corporation, and their successors for ever, for the purposes aforesaid, and according to their rules and regulations now being or hereafter to be in force; subject, however, to the terms, conditions, provisions and limitations touching and concerning the same, or any part thereof, herein enacted, expressed and contained.

Subject to conditions, &c.

The corporation are bound to commute with their *censitaires*, &c., whenever required, for all seigniorial rights, dues and burthens.

IV. And be it further ordained, &c., that the said corporation of the Ecclesiastics of the seminary of Saint Sulpice of Montreal, hereby constituted, and their successors, shall be, and they are hereby held and bound, whenever thereunto required by any of the *censitaires*, or other person or persons, or body or bodies politic or corporate, who now hold or may hereafter hold any real or immoveable property, *à titre de cens* or *en roture*, within any one or more of the said fiefs and seigniories, to consent to, grant and allow, to and in favor of such *censitaire*, person or persons, or body or bodies corporate or politic, requiring the same, a commutation, release and extinguishment of and from the *droits de lods et ventes*, *cens et rentes*, and all feudal and seigniorial burthens whatsoever, to which such *censitaire*, person, or body corporate, holding real or immoveable property in any one or more of the said fiefs and seigniories, his, her or their heirs, successors or assigns, and such real and immoveable property, so by him, her or them held, may be subject or liable to, in favor of the said Ecclesiastics of the seminary of Saint Sulpice of Montreal or their successors, for a certain price, indemnity and consideration in that behalf, agreed upon, or to be fixed, ascertained and determined in manner hereinafter provided, which shall be paid to the said Ecclesiastics of the seminary of Saint Sulpice of Montreal, or their successors, by the *censitaire*, person, or body corporate, requiring such commutation, release and extinguishment, in manner as hereinafter is directed: Provided always, that no such *censitaire*, person, or body corporate

Proviso, respecting arrears.

or politic, shall be entitled to, or demand any such commutation, release and extinguishment, in the behalf aforesaid, until he, she or they, shall have duly paid to the said Ecclesiastics of the seminary of Saint Sulpice of Montreal or their successors, all arrears of seigniorial rights, dues and duties, which he, she or they owed or may owe, or with which the said land or immoveable property, in respect whereof such commutation, release and extinguishment may be sought or required, had been, was, or may be then chargeable, or shall have otherwise satisfied them in that behalf, by any mode of adjustment agreed upon and concluded.

V. And be it further ordained, &c., that the price, consideration and indemnity, to be paid by any *censitaire*, person or body politic or corporate, for such commutation, release and extinguishment, with regard to his, her or their land or immoveable property, situate within any one or more of the said fiefs and seigniories, to be paid by him, her or them to the said Ecclesiastics of the seminary of Saint Sulpice of Montreal or their successors, shall be at and after the rates following, that is to say :—That the said commutation of all *cens et rentes*, within all and every the said fiefs and seigniories, shall be had and obtained on the payment of such capital or sum of money, as the said *cens et rentes*, reckoned at the legal rate of interest, shall or may represent ;—that the said commutation of the *droit de lods et ventes*, upon or in respect of any lot, piece or parcel of land in the said fief and seigniority of the island of Montreal, having buildings on it, and being with such buildings of the value of five hundred pounds, currency, or upwards, shall be had and obtained, for and during the first seven years which shall elapse after the passing of this ordinance, upon payment of not more than one twentieth part of the value of such lot, piece or parcel of land and buildings,—and at any time at and after the expiration of seven years subsequent to the passing of this ordinance, and before the expiration of fourteen years from the said time, upon payment of not more than one-eighteenth part of the value of such lot, piece or parcel of land and buildings,—and at any time after the expiration of fourteen years from the said time, upon payment of not more than one-sixteenth part of the value of such lot, piece or parcel of land and buildings ;—that the said commutation of the said *droit de lods et ventes*, upon or in respect of any lot, piece or parcel of land, situated within the said city of Montreal, whereupon there may be buildings of which the value shall be less than five hundred pounds and more than one hundred pounds, currency, shall be had and obtained, during the said first period above mentioned of seven years after the passing of this ordinance, upon payment of not more than one-sixteenth part of the value of such lot, piece or parcel of land and buildings,—and at any time after the expiration of the said seven years subsequent to the passing of this ordinance, and before the expiration of fourteen years from the said time, upon payment of not more than one-fourteenth part of the value of such lot, piece or parcel of land and buildings,—and at any time after the expiration of fourteen years from the said time, upon payment of not more than one-twelfth part of the value of such lot, piece or parcel of land and buildings ;—that the said commutation of the said *droit de lods et ventes* upon, for or in respect of any lot, piece or parcel of land, situate without the said city of Montreal, in any of the said fiefs and seigniories of the island of Montreal, Lake of the Two Mountains and Saint Sulpice, or for or in respect of any lot, piece or parcel of land, within the said city of Montreal, upon which there shall not be buildings of the value of one hundred pounds, currency,

Rates at which the commutations are to be made.

See Tables.

For cens et rentes in the fiefs and seigniories.

Lods et ventes in the seigniority of Montreal, on lots with buildings, and exceeding £500 in value.

Lods et ventes on lots in the city of Montreal, with buildings and of less value than £500, but of more than £100.

Lods et ventes on lots in the fiefs and seigniories and within the said city, with buildings and of less value than £100.

shall be had and obtained, for and during the said first period of seven years after the passing of this ordinance, upon payment of not more than one-twelfth part of the value thereof,—and at any time after the expiration of this period of seven years subsequently to the coming into force and effect of this ordinance, and before the expiration of fourteen years from the said time, upon payment of not more than one-tenth part of the said value,—and at any time after the expiration of fourteen years from the said time, on the payment of not more than one-eighth part of the value of such lot, piece or parcel of land or buildings.

In cases where the value of lots and buildings shall not be fixed by voluntary agreement, it shall be determined by arbitration.

Arbitrators how to be appointed.

Their award to be final, and to be confirmed by the court of K. B. at Montreal.

The commutation money to be paid to the corporation, or remain charged on the property at a redeemable quit rent, if it amounts to £100.

See Tables.

VI. And be it further ordained, &c., that in all cases where the said Ecclesiastics of the seminary of Saint Sulpice of Montreal, or their successors, and any of the said *cenitaires*, or other person or persons, body politic or corporate so requiring a commutation, release and extinguishment, in manner aforesaid, shall not, by voluntary agreement, settle and determine the value of any such lots, pieces or parcels of land and property with reference to which the said price, consideration money and indemnity, according to the rates hereinbefore established, shall be reckoned, such value thereof shall be fixed, ascertained and determined, by the award of arbitrators, in manner following, that is to say :—the said Ecclesiastics of the seminary of Saint Sulpice of Montreal, or their successors, shall and may nominate, and in their default so to do, one of the justices of the court of King's bench for the district of Montreal, shall and may on their behalf nominate an arbitrator, being an indifferent and disinterested person, and the said *cenitaire*, person or persons, or body corporate or politic, respectively, shall and may nominate and appoint one other arbitrator, being also an indifferent and disinterested person, and the said court of King's bench for the said district of Montreal, upon a petition or summary application to it made in that behalf, shall and may nominate one other arbitrator, being also an indifferent and disinterested person, which said three arbitrators, after having been previously sworn before any one of the justices of the court of King's bench for the said district of Montreal, (hereby authorized to administer such oath,) well, truly and honestly to execute the trust and duty of arbitrators, as aforesaid, and after notice to the parties, respectively, of the time and place of their meeting, shall proceed to fix, ascertain and determine the value of the lots, pieces or parcels of land and property, in respect whereof such commutation, release and extinguishment shall be required : Provided always, that the costs and expenses of such arbitration, shall be borne by the parties in equal shares, and that the said arbitrament and award of the said arbitrators, to be named and appointed as aforesaid, or of any two of them, in and respecting the premises,—shall be final, and the same shall be duly returned into, filed, and enrolled in the said court of King's bench for the district of Montreal, and shall by such court be duly confirmed.

VII. And be it further ordained, &c., that upon the rendering and confirmation of the said award, in the behalf and in manner aforesaid, it shall be lawful for the *cenitaire*, person or persons, or body corporate or politic requiring such commutation, release and extinguishment of the seigniorial and feudal rights and burthens, as aforesaid, to pay or offer to pay the said Ecclesiastics of the seminary of Saint Sulpice of Montreal, or their successors, as and for the price, consideration money and indemnity for the said commutation, release and extinguishment of all seigniorial and feudal rights and burthens, such part of the value of such piece or parcel of land and property, fixed and determined by such award, as according to the rates mentioned in

the fifth section of the present ordinance, should be due and payable in that behalf, or to declare his, her or their option to the said Ecclesiastics of the seminary of Saint Sulpice of Montreal, or their successors, that the said price, consideration money and indemnity, (provided the same shall amount to no less than one hundred pounds, currency,) shall be and remain upon, and shall charge and affect such lot, piece or parcel of land or property, at and for a redeemable quit rent, (*à rente constituée et rachetable*) according to the laws of this Province; and that any option in the said behalf so made and declared, shall have the full effect in law, of charging and affecting such land or property, for such price, consideration money and indemnity, at a redeemable quit rent, (*à rente constituée et rachetable*) to all intents and purposes whatsoever.

VIII. And be it further ordained, &c., that from and after the voluntary settlement and adjustment between the parties, touching the said price, consideration money and indemnity, or from and after the payment or tender of payment to the said Ecclesiastics of the seminary of Saint Sulpice of Montreal and their successors, of the said price, consideration money and indemnity, reckoned according to such award in that behalf, or from and after a declaration signified to the said Ecclesiastics of the seminary of Saint Sulpice of Montreal, or their successors, by the said *censitaire*, person or persons, or body politic or corporate, of his, her, or their option, that such price, consideration money and indemnity, reckoned according to such award, shall be and remain upon and charge and affect such lot, piece or parcel of land and property, at and for a redeemable quit rent (*à rente constituée et rachetable*), in manner aforesaid,—all and every the *droits de cens et rentes, lods et ventes, droit de banalité de moulin, droit de retrait*, and all other feudal and seigniorial rights whatever of the said Ecclesiastics of the seminary of Saint Sulpice of Montreal and their successors, upon, for or in respect of the lot, piece or parcel of land, or property, as to and concerning which such commutation, release and extinguishment may be sought and required, shall be, and be held to be, taken and considered for ever commuted, released and extinguished,—and such lot, piece or parcel of land shall be holden and be deemed and considered as holden thenceforth for ever, by the tenure of *franc aleu roturier* according to the laws of this Province, and shall never again be granted, surrendered or holden by any feudal tenure whatsoever: Provided always that nothing hereinbefore contained, shall extend or be construed to extend to discharge the lots, pieces or parcels of land, the tenure whereof may be so converted into that of *franc aleu roturier*, from the rights, hypothecs, privileges, reservations and demands of the said Ecclesiastics of the seminary of Saint Sulpice of Montreal and their successors, charged in and upon the same, for the security and recovery of the price, consideration money and indemnity, which by reason of the adjustment with the *censitaire* or person who required such commutation, release and extinguishment, may remain as a charge and incumbrance of such land or property, at a redeemable quit rent, as aforesaid, (for the security and recovery of which prices, consideration money and indemnity, the said corporation shall have the same legal recourse, privilege and priority of hypothec as they would have had for any right extinguished by such commutation, or for the security and recovery of any arrears of seigniorial dues accrued before such commutation, release and extinguishment may have been required,)—or in any wise to destroy, alter or affect the remedies and recourse at law which the

When the seigniorial rights of the corporation are to be considered as commuted.

See Tables.

After commutation the tenure to be that of *franc-aleu roturier*.

Proviso respecting the lawful rights, privileges, &c., of the corporation.

said Ecclesiastics of the seminary of Saint Sulpice of Montreal or their successors might lawfully have had or have taken for the recovery of the same, if such commutation, release and extinguishment had not been made and obtained,—but that all and every the lawful rights, *hypothèques*, privileges, actions, demands, recourse and remedies in that behalf, of the said Ecclesiastics of the seminary of Saint Sulpice of Montreal and of their successors, be, and the same are hereby saved and maintained.

the corporation refuse to execute an instrument in writing in favor of any *censitaire*, &c., who may have commuted, the corporation may be impleaded.

IX. And be it further ordained, &c., that if the said Ecclesiastics of the seminary of Saint Sulpice of Montreal or their successors, shall refuse or neglect to make and execute, to and in favour of any *censitaire* or other person, or body corporate or politic, who shall in manner aforesaid, have paid or tendered payment to them the amount of the said price, consideration money and indemnity, according to any such award, made in due manner,—or who shall have declared his, her, or their option, to the said Ecclesiastics of the said seminary of Saint Sulpice of Montreal or their successors, that such amount should remain upon and charge and affect the lot, piece or parcel of land and property, and for a redeemable quit-rent, according to the provisions in that behalf hereinbefore contained,—an instrument in writing before two notaries, or a notary and two witnesses, (at the joint cost of the parties) setting forth such commutation, release and extinguishment of all seigniorial and feudal rights, dues and burthens, and the terms of conditions thereof, according to law and the respective rights of the parties,—it shall and may be lawful to and for such *censitaire*, person or persons, or body corporate or politic aforesaid, to implead the said Ecclesiastics of the seminary of Saint Sulpice of Montreal and their successors, in the said court of King's bench for the district of Montreal, for the purpose of compelling them to grant to the said *censitaire*, person or persons, or body corporate or politic aforesaid, such instrument in writing as aforesaid, setting forth such commutation, release and extinguishment, according to law and the respective rights of the parties; and upon their default so to do, it shall be lawful for the said court of King's bench, and they are hereby required, by their judgment in that behalf, to award and adjudge to such *censitaire*, person or persons, or body corporate or politic, the full benefit of such commutation, release and extinguishment, for and in respect of such land or property, according to law and the respective rights of the parties, with lawful costs of suit.

And then, upon default, the court of K. B. may adjudge the full benefit of such commutation to such *censitaire*, &c.

Rate at which arrears of *lods et ventes* may be exacted by the corporation.

X. And be it further ordained, &c., that the said Ecclesiastics of the seminary of Saint Sulpice of Montreal, and their successors shall not, for arrears of *lods et ventes* accrued to them at the time of the coming into force and effect of this ordinance, or hereafter to accrue and become due to them according to law, for each mutation in the ownership of any lands and tenements situated within the said city of Montreal, and of which, with the buildings erected thereon, the value shall be the sum of five hundred pounds, currency, or upwards, demand and exact more than one-twentieth part of the price and consideration for each sale or conveyance of any such lands and tenements;—nor shall they, for each and every mutation in the ownership of any lands or tenements situated in the *censive* of any one of the said three fiefs and seignories, and out of the limits of the said city of Montreal, exact or demand more than one-sixteenth part of the price and consideration of the sale and conveyance of such last mentioned lands and tenements;—nor shall they, for each and every mutation in ownership of any lands or tenements situated within the limits of the said city of Montreal,

of which, with the buildings thereon erected, the value shall be less than five hundred pounds, currency, exact or demand more than one-sixteenth part of the price or consideration for each sale or conveyance thereof;—and further, that all and every such arrears of *lods et ventes* accrued at the time of the passing of this ordinance, according to the respective rates aforesaid, shall not be demandable from any person or persons owing the same, personally or hypothecarily, nor shall any such person or persons, indebted as aforesaid to a greater amount than forty-one pounds, currency, be compellable to pay the same to the said Ecclesiastics of the seminary of Saint Sulpice of Montreal, and their successors, except within seven years from the day when this ordinance shall come into force and effect, in seven equal and annual instalments: Provided always, that in default of any person or persons to pay any such instalment or instalments after the same shall become due, and after three months' notice, and a notarial demand, signified to him or them in that behalf, the whole of such arrears of *lods et ventes*, according to the rates aforesaid, or the remaining unpaid instalments thereof, shall become and be immediately payable to and demandable by the said Ecclesiastics of the seminary of Saint Sulpice of Montreal or their successors, from, and shall be paid to them by, the person or persons who shall owe the same: Provided also, that in case the said Ecclesiastics of the seminary of Montreal or their successors, shall, before the time when this ordinance shall come into force, have been obliged to make and file any opposition *afin de conserver*, in any court of judicature in the said district of Montreal, with regard to the lands and tenements, charged and encumbered with and for the payment of any such arrears, or to the proceeds of any judicial sale thereof, or to applications for judgments of confirmation of title of any such lands or tenements,—then and in such case the Ecclesiastics of the seminary of Saint Sulpice of Montreal and their successors, shall be entitled to judgment for, and to receive, such part only of the price and consideration for each and every mutation in the ownership of such lands and tenements, as is herein provided, according to the value and locality thereof; but the amount for which such judgment shall be rendered, shall be payable at the time when it would have been payable if this ordinance had not been passed: Provided, however, that any judgment for any such arrears which shall have been rendered before this ordinance shall come into force, in favour of the said Ecclesiastics of the seminary of Saint Sulpice of Montreal, shall and may be executed according to the tenor thereof, as if this ordinance had not been passed.

To be paid in seven equal and annual instalments, if the amount exceeds £41.

Proviso respecting the non-payment of instalments when due.

Proviso respecting oppositions *afin de conserver*.

Proviso respecting judgments rendered before this ordinance is in force.

XI. Provided always, and be it further ordained, &c., that the total amount to be received by the said Ecclesiastics of the seminary of Montreal to their use, for the purposes herein specified, as and for arrears of *lods et ventes* due before the passing of this ordinance, shall in no case exceed the sum of forty-four thousand pounds, currency, on real property lying within the fief and seignior of the island of Montreal,—nor the sum of twelve thousand, seven hundred pounds, currency, on real property lying within the said fiefs and seigniories of the Lake of Two Mountains and of Saint Sulpice; and any monies received by the said corporation for any such *lods et ventes*, over and above the said sums respectively, shall be so received for Her Majesty, Her Heirs and Successors, for the public uses of the Province, and shall be paid over by the said corporation to the receiver general, and await in his hands the disposal of the legislative authority of the Province.

The arrears of *lods et ventes* to be received by and for the use of the corporation, not to exceed £56,700.

And the amount received above that sum to be paid to the receiver general for the public uses of the Province.

XII. And be it further ordained, &c., that the lot, piece or parcel of land called the farm of Saint Gabriel, situated within the said fief and seignior of St. Gabriel to

The farm of

be alienated in
franc-aleu ro-
turier for ever,
within twenty
years.

Such parts
thereof as shall
not be alienat-
ed as above, to
be forfeited to
the Crown.

How the cor-
poration are
to invest their
disposable
monies.

£30,000 may
be applied in
the purchase of
immoveable
property in the
Province, in
order to pro-
duce income.

Proviso.

The corpora-
tion may also

the island of Montreal, lying on the west side of the lower road to Lachine, containing about two hundred and seventy arpents, being one of the domain lands, farms, tenements and hereditaments, secured and confirmed to the said Ecclesiastics of the seminary of Saint Sulpice of Montreal, and their successors, by the second section of this ordinance, shall, within the space of twenty years after the passing of this ordinance, be, by the said Ecclesiastics, alienated and disposed of by public sales, after advertising the same for a month in two of the public newspapers published in the said city of Montreal, in *franc aleu roturier*, for ever, in such parts and parcels and for such prices, terms and considerations as to them may seem most meet and advantageous; and for the making of any such alienations and conveyances, the said Ecclesiastics of the seminary of Saint Sulpice of Montreal and their successors are hereby fully and duly licensed and authorized; and if, at the expiration of the said twenty years, the said farm of Saint Gabriel, or any parts or parcels thereof, shall yet remain not alienated or disposed of,—then and in that case, the said farm of Saint Gabriel, or such parts or parcels thereof as shall so remain not alienated or disposed of as aforesaid, shall, by the mere lapse of the said period of time and by operation of law, fall within the provisions of the laws of mortmain, and be forfeited to and be vested in Her Majesty, Her Heirs and Successors, and be re-united to the domain of the Crown for ever.

XIII. And be it further ordained, &c., that all and every the monies which may arise from the commutation, release and extinguishment of the seigniorial rights and burthens, for and in respect of lands, tenements and property within the *censive* of the said three fiefs and seigniories, and which may by the provisions and for the purposes of this ordinance be the property of the said corporation, and all monies which shall be received and gotten in, by reason of the sale, alienation or disposal of the said farm of Saint Gabriel, or of any parts or parcels thereof, and which monies as aforesaid, may be disposable, after the necessary expenditure for the uses and support of the said institution shall have been provided for,—shall by the said Ecclesiastics of the seminary of Saint Sulpice of Montreal or their successors, be invested in the public stocks or securities of the United Kingdom of Great Britain and Ireland, or of its colonies or dominions, and not otherwise; and that the rents, revenues, dividends and profits of the monies so invested, shall be had, taken and received by the said Ecclesiastics of the seminary of Saint Sulpice of Montreal and their successors, to be expended in and about the support and management of the said institution, and in promoting its objects according to the provisions and requirements of this ordinance: Provided always, that out of the said monies which shall so arise, or shall be, as aforesaid, received and gotten in and collected, it shall and may be lawful for the said Ecclesiastics of the seminary of Saint Sulpice of Montreal and their successors, to apply and invest a sum or sums of money, in the whole not exceeding the sum of thirty thousand pounds, currency, in *constitutions de rentes* on immoveable property, or as the purchase of houses, lands and tenements, and immoveable property, situated within this Province, in order to create and produce income to the said Ecclesiastics of the seminary of Saint Sulpice of Montreal, and their successors: Provided always, that in addition to and over and above such real property producing income, which the said corporation are hereby authorized to purchase and hold, to the value of thirty thousand pounds, as aforesaid, and no more, they may likewise purchase and hold any other real

property, houses, buildings, or tenements, destined for and appropriated to hold other real purposes of religion, charity, or education, and producing no income, which property producing no income may be necessary to accomplish the purposes and objects of the said corporation, as the same are hereinbefore described and defined.

XIV. And be it further ordained, &c., that the said Ecclesiastics of the seminary of Saint Sulpice of Montreal, shall, whenever and so often as they may be thereunto required by the Governor, Lieutenant-Governor, or person administering the government of this Province, for the time being, lay before him, or before such officer or officers as he shall appoint, a full, clear, and detailed statement of the estate, property, income, debts, and expenditure, and of all the pecuniary and temporal affairs of the said corporation, in such manner and form, and with such attestation of correctness, as the Governor, Lieutenant-Governor, or person administering the government, shall direct.

To furnish a statement of their affairs when required by the Governor.

XV. And be it further ordained, &c., that the said Ecclesiastics of the seminary of Saint Sulpice of Montreal, and their successors, as to temporal matters, shall continue and be subject to the same powers of visitation, as in the like cases were possessed and exercised by the Kings of France, before the conquest of this Province, and are now possessed and exercised in that behalf by Her Majesty, in right of Her Crown.

To be subject to visitation.

XVI. And be it further ordained, &c., that nothing in this present ordinance contained, shall extend or be construed to extend, to destroy, diminish, or in any manner to affect, the rights and privileges of Her Majesty, Her Heirs and Successors, or of any person or persons, society or corporate body, excepting such only as this ordinance may expressly and especially destroy, diminish or affect.

Rights and privileges of Her Majesty, and others, not to be affected.

XVII. And be it further ordained, &c., that this ordinance shall be taken and deemed to be a public act and ordinance, and as such shall be judicially taken notice of by all judges, justices of the peace, and all others whom it shall concern, without being specially pleaded.

This ordinance to be deemed a public act.

XVIII. And be it further ordained, &c., that this ordinance shall be and is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

And to be permanent.

38. SURVEYORS (LAND.)

An Ordinance concerning Land Surveyors, and the admeasurement of Lands. 25 Geo. III. Cap. 3.

WHEREAS it is highly necessary, in order to secure to His Majesty's subjects the peaceable possession of their landed property, by preventing frequent and vexatious suits, that such persons only should be appointed surveyors of land, as are properly qualified, and that all and every survey to be made, should be done and performed in a manner the best to secure the rights of His Majesty's subjects:—Be it therefore ordained, &c., that a meridian line shall be properly drawn and marked, at the most convenient place, in or near the towns of Quebec, Three-Rivers and Montreal, by the surveyor or deputy surveyor general of this Province, and by which all surveyors shall regulate and rectify their several surveying instruments, once in every year at least, and in the presence of the surveyor or deputy surveyor general or other person by them or either of them duly authorized for that purpose. And all and every surveyor of lands is hereby required

Preamble.

Meridian lines to be established for verifying surveying instruments.

to demand and obtain, from the said surveyor or deputy surveyor general or person authorized as abovesaid, a certificate, that their several instruments, to be used and employed in surveying, are good and sufficient. And in the certificate so to be granted, shall be set down and expressed the variation found at the period of making such certificate as aforesaid.

No person to act as a surveyor without a certificate of qualification.

II. That from and after the publication of this ordinance, no person shall act as a public surveyor of lands, nor be appointed to act as such, until he shall have been duly examined by the surveyor or deputy surveyor general, as to his fitness and capacity, his character, and the sufficiency of his instruments as abovesaid, and have obtained the certificate abovementioned.

Surveyors to give security, and take an oath of office.

III. That all and every person to be commissioned and appointed to act as a land surveyor, for the districts of Quebec or Montreal, shall, before he enters upon the duties of such appointment, give good and sufficient security to His Majesty, in the sum of fifty pounds, for the faithful discharge of his duty, and shall take the following oath, in His Majesty's court of common pleas for the district wherein he may be appointed to act as abovesaid.

O A T H .

The oath.

" I, _____ do solemnly swear, that I will well and truly discharge my duty as a surveyor of lands, agreeable to law, without favor, affection or partiality, when and as often as thereto I may be required by any person or persons, or by the rule and order of any court of justice; and that without delay, unless from some lawful impediment whereby I may be prevented, *and which I will faithfully and immediately submit* to the party requiring, or the court directing, my duty and a survey as abovesaid."

Chain-bearers to be sworn.

IV. That all and every chain carrier shall take an oath, and be sworn on the Holy Evangelists, to admeasure justly and exactly, according to the best of his knowledge, and to deliver a true account thereof to the surveyor by whom he may be appointed to the performance of such duty; and which oath the surveyor so nominating, is hereby authorized and required to tender and administer.

Land measure established.

V. That the land measure shall be the same as before the year of Our Lord 1760, in all grants of seigniories and concessions therein, to that period.

Boundaries how to be marked.

VI. That all and every surveyor, who shall survey or measure lands shall plainly mark and bound the lands so measured; that the boundary mark to be made on lands surveyed, between seignior and seignior, and the property of co-seignior and co-seignior, in any seignior, shall be of stone, of the length of one foot and a half at least, above the surface of the earth; and the boundary mark on lands, the property of persons holding under a seignior, by title of concession, shall also be of stone, of one foot at least above the surface of the earth; and that under every boundary mark, shall be placed pieces of brick or dross of iron, or pieces of earthenware, conformable to the custom of the country in like cases.

Each surveyor to keep a register.

VII. That all and every surveyor shall keep a book of registry of his several surveys, and also of the plot or land admeasured and surveyed; and in which registry shall be entered a minute detail of the proceedings of such surveyor, in the performance of his duty, upon every survey by him made, and from which registry copies shall be granted to persons therein concerned, in the manner following.

FORM OF REGISTRY OF SURVEY AND CERTIFICATE OF THE SAME.

" On this day of , in the year ,
 " of our Lord one thousand seven hundred and ,
 " at the request of , of the parish of ,
 " , in the district of ,
 " (addition) , (or in obedience to an order of His
 " Majesty's court of , bearing date the
 " day of , A.D. 17 .) I,
 " surveyor of lands in the district of , having been
 " on the fief and seignior of , situate and lying in the
 " parish of , in the district of ,
 " on at the concession of the said fief and seignior,
 " and then and there, after having read and examined the title-deeds and
 " papers of the parties before me, that is to say :—those of
 " bearing date the granted and executed by (repeating
 " the several title-deeds by dates, as abovesaid) and
 " also the title-deeds of bearing date the
 " granted and executed by, &c., (as above) and by which said several
 " title-deeds, I have considered that there doth belong unto the said
 " acres in front, by acres in depth ; and in con-
 " sequence of the said titles, and in conformity to the title of
 " prior to that of I have admeasured acres in front
 " upon a line running degrees (correction of the
 " compass or magnetical variation) between and
 " bounded on the one side, on and on the other
 " side, on and at each extremity of the said lands, which
 " in consequence of the said titles ought to contain acres
 " in front, I have planted and fixed a boundary mark of stone of the length of
 " from the surface of the earth, and laid and placed thereunder
 " pieces of earthenware (or brick or dross of iron) ; from which boundaries
 " so placed, I have raised perpendiculars, running in depth on the point of
 " the compass declining which I have
 " measured to be at the distance of from the said boundary
 " marks so placed ; and this I have so done and performed in order to allot
 " and lay out to the said the full quantity of land
 " mentioned and contained to be granted and conceded by his titles, making
 " superficial acres Surveyed, done and
 " executed in the presence of and of the
 " parties interested ; also in the presence of inhabitants of
 " the said parish, of witnesses, (or chain-carriers or of
 " by them named and chosen for this purpose,—or, (if one
 " of the parties be absent) in the absence of no person
 " appearing for him, although duly notified to attend the survey abovesaid.)
 " In testimony whereof I have hereunto subscribed my name, and have
 " also caused the said witnesses to subscribe their names, the day and year
 " above mentioned (or, who have made their marks, after hearing these
 " presents duly read unto them, and declaring they did not know how to
 " write ;) And I have delivered these presents unto the said
 " for the purposes therein mentioned. "

And if there should be found triangles in the surveying or measuring of
 any lands by their respective titles, the surveyor so surveying, shall parti-
 cularly make mention of the same, in the survey and form of registry above-
 mentioned in the certificate of survey.

said, as also of curvilinear or mixtlineal figures and descriptions, and also of superficiales, if it be necessary ; also, if there be one or more rivers running across or through a seigniory, every surveyor surveying and measuring the same, shall make mention, in his survey, of such rivers and their course, and also of the side of the river on which he shall have begun his survey.

Penalty for removing any boundary mark.

VIII. That whosoever shall remove a boundary or land-mark, as above-mentioned, without lawful authority so to do, shall be subject to an action of damages, to be instituted by the person injured, to recover such damages as the nature of the case may require ; and also shall be liable to and pay a fine, of twenty pounds, to be recovered by bill, plaint or information, in His Majesty's court of common pleas in the district where the offence may be committed ; one moiety of such fine shall be paid to the receiver general of the Province, for His Majesty's use, and the other moiety to the person who shall inform and sue for the same.

Applicants for appointment to transmit their names.

(This can have no effect now.)

IX. That all and every person who at present may act, or may be desirous to be lawfully appointed to act as a public land surveyor, shall, within three months from the publication of this ordinance, transmit to the office of the surveyor general of this Province, his christian and surname, with the date of the commission or authority under which he hath acted, and by whom granted, that those only may be published in the Gazette and authorized to act, as shall be approved of by the Governor, Lieutenant-Governor or Commander-in-chief, upon the report of the surveyor general.

Registers kept by surveyors to be deemed public records. How to be deposited after the death of the surveyor.

X. That on the death of any surveyor, his books of survey, and other books and papers relating thereto, shall be taken and considered as public records of the court of common pleas of the district wherein he may have acted as a surveyor, and shall be thereafter deposited of record in the clerk's office of the said court of common pleas, for the benefit of all His Majesty's subjects, and to which they may, from time to time, freely have recourse, and on demand may have copies thereof granted by the respective clerks of such courts, on payment of the legal and accustomed fees : that in case of the decease of any surveyor, and of his books and papers being so lodged as abovesaid, the widow or heirs of such surveyor shall annually be entitled to have a just account and receive one half part of all fees for copies from the books and papers of such deceased surveyor, and for and during the space of five years from his decease.

57 Geo. III. Cap. 26.

An Act to render more certain the Lines and Boundaries of Lands, and for establishing and erecting of Meridian Stones in the different parts of this Province.

Preamble.

WHEREAS many of the lines and boundaries of lands and real estates in this Province, have been drawn and laid down from the magnetic courses, without any regard to the true meridian, which, from the perpetual change in the variation of the compass, may be the cause hereafter of numberless and vexatious suits, and ruin of many individuals ; And whereas the establishing and erecting of a certain number of meridian stones from astronomical observations, in various parts of the Province, will produce the most beneficial effects in regard to the said lines and boundaries :—Be it therefore enacted, &c., that it shall and may be lawful to and for the Governor, Lieutenant-Governor, or person administering the government of this Province, for the time being, at any time within the period of three years, from and

Governor may authorize the surveyor general, &c., to lay down meridian

after the passing of this act, to authorize and direct the surveyor or deputy surveyor general of this Province, or all and every other persons whom the Governor, Lieutenant-Governor, or the person administering the government, for the time being, shall appoint for that purpose, to lay down meridian stones, from astronomical observations, in the most convenient situations in each of the towns, parishes, seigniories and townships in this Province, hereinafter particularly named, in such manner and way as the Governor, Lieutenant-Governor, or person administering the government of this Province, for the time being, shall be pleased to order and direct, and as to him may appear best adapted for the attainment of the purposes of this act; one of which said meridian stones shall be laid down in each of the towns, parishes, seigniories and townships following, that is to say :—at New Carlisle, in the inferior district of Gaspé,—at Percé, in the same inferior district,—at the parishes of Rimouski, Rivière du Loup and River Ouelle, in the county of Cornwallis,—at the parishes of Saint Joachim and des Eboulements, in the county of Northumberland,—at the parish of Saint Thomas, in the county of Devon,—at the parish of Saint Mary, Nouvelle Beauce, in the county of Dorchester,—at the parish of Lotbinière and at Drummondville, in the county of Buckinghamshire,—at the parish of Deschambault, in the county of Hampshire,—at the parish of Rivière du Loup, in the county of Saint Maurice,—at the seignior of the Lake of the Two Mountains, in the county of York,—at the parish of L'Assomption, in the county of Leinster,—at Beauharnois, in the county of Huntingdon,—at the parishes of Sorel and Saint Hyacinthe, in the county of Richelieu,—at the town of Saint John, in the county of Huntingdon,—at Saint Armand, in the county of Bedford,—and in the townships of Stanstead, Shipton and Halifax.

stones from astronomical observations, in the most convenient situations in the towns, &c., in this Province.

See Tables.

The places designated for laying down meridian stones.

II. And be it further enacted, &c., that the surveyors of lands in this Province, shall and may regulate their surveying instruments at any one of the said meridian stones, when so laid down as aforesaid, in the same manner as prescribed and directed in the ordinance passed, &c., (25 Geo. 3. cap. 3.) and the same shall be as effectual, to all intents and purposes, as if the said surveying instruments had been regulated by the meridian lines which have been already drawn and marked at the cities of Quebec and Montreal and the town of Three-Rivers, under and by virtue of the said last mentioned ordinance.

Surveyors to regulate their surveying instruments at any of the meridian stones.

39. TAVERNS, SALE OF SPIRITUOUS LIQUORS.

An Ordinance to amend a certain Act therein mentioned, and 2 Vict. (3.)
to provide for the better regulation of Taverns and Tavern-
Keepers. Cap. 14.

WHEREAS it is necessary to amend a certain act passed in the thirty-
fifth year of the reign of King George the Third, chapter eight, in so
far as the said act relates to persons obtaining licences to keep houses of
public entertainment in this Province, and to the mode of obtaining such
licences :—Be it therefore ordained and enacted, &c., that from and after
the passing of this ordinance, no licence shall be granted to any person or
persons, for keeping any house or place of public entertainment within any
country parish or township, unless the person or persons applying for the
same, shall produce a certificate to the effect hereinafter required, from the

Preamble.

No licence to keep a tavern shall be granted for a country parish, but upon certificate.

senior justice of the peace, the officer of militia highest in grade, and the church-warden in office in such parish or township,—or where there is not a justice of the peace residing or present within such parish or township, from the two officers of militia the highest in grade, and the church-warden in office, or where there is no church-warden residing or present in such parish or township, from the senior justice of the peace, and the two officers of militia the highest in grade,—or where there is no church-warden nor justice of the peace, from the three officers of militia highest in grade, residing within the parish or township for which such licence is applied for, or if there be not, in such parish or township, three persons who can, under the foregoing provisions of this ordinance, sign such certificate, then from such person or persons resident therein, as shall hold any of the offices or grades as aforesaid; nor shall any person receive such licence, unless the certificate of his being a fit and proper person to obtain the same, shall also state that he has a house, stable and accommodation for travellers, according to the requirements of this ordinance, and that he has entered into a bond to Her Majesty, before one or more justices of the peace, jointly and severally with two sureties to the satisfaction of the persons granting such certificate, for the payment of all penalties which he may be condemned to pay for any offence against the provisions of this ordinance or of the act hereinbefore cited, during the time for which such licence shall be obtained: Provided always, that the person or persons demanding such certificate, shall not be at the same time traders in, or retailers of spirits, brandy, wine, or any other kind of spirituous liquors.

Capabilities of applicant to be stated in certificate, and bond to be entered into.

Proviso.

Not to prevent justices of the peace in Quebec, Montreal, or Three-Rivers, from granting certificates as heretofore, but only in special session of the peace, to be held after public notice, and at certain times.

Proviso.

Special session to be held in April next.

No certificates to be granted other than in the manner and at the periods provided.

II. Provided always, and be it further ordained, &c., that nothing in the foregoing provisions of this ordinance, shall extend to prevent the justices of the peace residing in the cities of Quebec or Montreal, or the town of Three-Rivers, or the suburbs or banlieue thereof, respectively, from granting certificates to any person or persons, for keeping any house or other place of public entertainment within the said cities, town, suburbs or banlieue, respectively, in the manner and form which were in use and practised before the passing of this ordinance: Provided also, that the said certificate shall be granted only in a special session of the peace, to be held on some day between the twentieth and thirtieth days of January, inclusive, in each and every year, of which public notice shall be given by the clerks of the peace, fifteen days at least before such session, and which said special session may be adjourned by order of a majority of the magistrates then and there present, from day to day, during the said period or any part thereof; and that the magistrates in said special session assembled, shall determine upon the number of certificates to be granted, and the persons in whose favour the said certificates shall be issued: Provided also, that the said justices of the peace shall, and are hereby authorized to hold a special session of the peace, for the said cities, town, suburb, and banlieue, respectively, on some day between the first and tenth days of April, inclusive, now next ensuing, and which said session may be adjourned from day to day, during the said period, or any part thereof, as hereinbefore provided, and to grant certificates at the said session, which said certificates shall be and continue in force until the twentieth day of May, in the year one thousand eight hundred and forty:—And it is hereby expressly ordained and enacted, that no certificates shall be granted to any person or persons for keeping any house or other place of public entertainment, within the said cities, town, suburbs or banlieues, other than at the periods, and in the manner hereinbefore provided:

Provided also, that nothing herein contained shall extend to render invalid any certificate or licence to keep a house of public entertainment, granted before the passing of this ordinance, during the time for which such certificate or licence shall have been granted: Provided also, that nothing herein contained shall prevent the Governor, Lieutenant-Governor, or person administering the government of the Province, from granting any such licence, if it shall appear to his satisfaction that there is, or are, no person or persons empowered to grant certificates for licences in the parish, township or place of the applicant: Provided further, that if any certificate of qualification to keep a house of public entertainment, beyond the limits of the said cities, town, suburbs and banlieues, respectively, shall have been delivered to any person by any clerk of the peace, and any fee paid, no fee shall be paid by such person for a certificate under the provisions of this ordinance, (if such person shall become entitled to receive one,) in place of the certificate which shall have become invalid, but if such person shall not become so entitled, the clerk of the peace shall not be bound to return the fee so paid to him, nor shall he in any case be bound to return the fee paid on any certificate, because no licence shall have been granted in consequence thereof.

Not to invalidate licences already granted.

Governor may grant licences, &c.

See Tables.

Fees.

III. And be it farther ordained, &c., that every person holding a licence to keep a house of public entertainment, who shall, at any hour, refuse to receive any traveller not residing within the parish or township in which such house is situate, or who at any time, shall not have in such house two good beds at least for the accommodation of travellers, in addition to those used by the family, or shall not have, in a stable attached to such house, convenient stalls for at least four horses, with a sufficient quantity of hay and oats, may be prosecuted in the same manner and under the same provisions, and shall, on conviction, be subject to the same penalties and punishment, as are by law provided with respect to persons who retail spirituous liquors without a licence for that purpose; and such penalties shall be levied, applied and accounted for, and such punishment awarded, in the manner by law provided with respect to those annexed to the offence last named; and if sufficient goods and chattels belonging to the person offending, shall not be found, the said penalties shall be levied of the goods and chattels of the persons who shall have become sureties for the payment thereof.

Penalty for refusing to receive any traveller, and for not being provided with due accommodation.

IV. And be it further ordained, &c., that from and after the passing of this ordinance, no person shall receive a licence to keep a house of public entertainment and to retail spirituous liquors therein, unless to the certificate of his or her being a fit and proper person to obtain such licence, there shall be annexed an affidavit, in the form of the schedule A., duly made and sworn to by him or her, before some one of Her Majesty's justices of the peace (who is hereby authorized and empowered to administer the necessary oath;) and any person who shall, in making such affidavit, wilfully swear falsely, shall on being convicted thereof in due form of law, be liable to the pains and penalties of wilful and corrupt perjury.

Certificate and affidavit.

See Tables.

V. And be it further ordained, &c., that the senior justice of the peace, or (where there shall be no justice of the peace) the officer of militia highest in grade in each parish or township, shall on or before the fifteenth day of May in each and every year after the passing of this ordinance, transmit to the clerks of the peace, within their respective districts, a list of the persons to whom certificates for licences have been granted, in their respective

List of persons who have received certificates.

parishes or townships; and such certificate shall be in the form of the schedule B., and shall not be granted after the fifteenth day of May, for the current year.

Licences may be cancelled by letter from any officer duly authorized.

VI. Provided always, and be it further ordained, &c., that no certificate granted either under the provisions of this ordinance or of those of the act hereinbefore cited and amended, shall give the person or persons obtaining it, any right to obtain a licence to keep a house of public entertainment, or to retail spirituous liquors; but that such licences shall be granted to such persons only, among those who shall have obtained such certificates, to whom it shall be deemed meet, by the Governor, Lieutenant-Governor, or person administering the government of the said Province, to grant the same; and any such licence may, at any time, be annulled and cancelled by a letter from any officer duly authorized to that effect by the Governor, Lieutenant-Governor, or person administering the government, and delivered before two witnesses to the person holding such licence, who shall thereafter be held in all respects, and to all purposes of law, to have no licence to keep a house of public entertainment or to retail spirituous liquors.

No licence to be granted until bond be entered into.

VII. And be it further ordained, &c., that no licence shall be granted for keeping any such house or other place of public entertainment, until the person or persons applying for the same shall have entered into a bond to Her Majesty, before one or more justices of the peace, in the sum of forty pounds, currency, with two sureties in the sum of twenty pounds, currency, each, to do, perform and observe the conditions and requirements of this ordinance and of the act hereinbefore cited and amended; which bond shall, within one month from the time of the taking of the same, be transmitted by the said justice or justices, to the clerks of the peace for their respective districts.

Fees to the clerk of the peace.

VIII. And be it further ordained, &c., that for every certificate, bail-bond, or other entry whatsoever, or for executing any of the duties prescribed by this ordinance, the clerks of the peace shall only be entitled to the sum allowed them for similar services, by a certain act passed in the sixth year of the reign of His late Majesty, William the Fourth, chapter fourteen, which act expired on the first day of May, one thousand eight hundred and thirty-eight, that is to say, to the sum of one shilling and three pence, currency; any usage, tariff, or law to the contrary notwithstanding.

Licences to expire between the 1st and 20th days of May.

IX. And be it further ordained, &c., that all licences to be granted under the authority of the act herein first above cited and amended, and of this ordinance, by the Governor, Lieutenant-Governor, or person administering the government of this Province, shall be so granted as to expire between the first and twentieth days of the month of May next after the date thereof, and for no longer time; any law, usage, or custom to the contrary notwithstanding.

Licence to be exhibited and published, and notification affixed to church door, &c.

X. And be it further ordained, &c., that it shall not be lawful for any person or persons, who shall have obtained a licence or licences in the manner hereinbefore mentioned, to proceed to sell or retail spirituous liquors, or to keep a house or houses of public entertainment, until he, she, or they shall have exhibited such licence or licences, to the person or to one of the persons hereby authorized to grant certificates for licences; and such person shall, on the first Sunday thereafter, cause such licence to be publicly read at the church door of the parish, seigniorly or township for which the same shall have been granted, immediately after Divine Service in the forenoon.

or where there shall be no church, then at the place of most public resort in the seigniority or township for which such licence shall be granted, and shall affix or cause to be affixed on the door of such church, or where there is no church, at the place of most public resort, a notification that the person to whom such licence hath been granted, hath been and is duly qualified and authorized to sell spirituous liquors or to keep a house of public entertainment, in such parish or place ; and every such person holding such licence, who shall sell spirituous liquors, or keep a house of public entertainment, before he, or she, shall have exhibited such licence in the manner hereinbefore provided, shall be liable to the penalty or penalties imposed by law on persons selling spirituous liquors without licence.

XI. And be it further ordained, &c., that every person who shall obtain a licence to keep a house of public entertainment and to retail spirituous liquors therein, shall place upon his house, in an exposed situation, a notice in legible characters, showing that such person is so licensed as a tavern-keeper ; and every person who shall refuse or neglect so to do, shall incur the penalty imposed for similar offences by the act passed in the sixth year of the reign of His late Majesty, William the Fourth, hereinbefore cited, that is to say, of not less than twenty shillings, nor more than forty shillings, currency, and shall be liable for a second offence to the forfeiture of his licence, which he may in such case be condemned to forfeit, on conviction of such offence before any two justices of the peace.

A notice to be conspicuously placed on the house of every licensed tavern-keeper.

XII. And be it further ordained, &c., that whenever any person holding a licence to keep a house of public entertainment and to retail spirituous liquors, shall be convicted of having kept a disorderly house, or convicted before two justices of the peace, of knowingly vending spirituous liquors during Divine Service on Sundays or Holydays (except for the use of travellers, not being persons usually resident in that or any adjoining parish, township or extra-parochial place) or of suffering any seaman, soldier, apprentice, servant, or minor, to remain tippling in his or her house after seven o'clock in the evening in winter, or after nine o'clock in the evening in summer, or of having committed any felony,—the court, or such justice of the court of King's bench, or the provincial judge, or the justices of the peace, before whom such person shall have been convicted, shall, if he or they shall see fit, adjudge and order that the licence thus held by any such person so convicted, shall be forfeited, and that he or she shall no longer keep a house of public entertainment or retail spirituous liquors, in virtue thereof, and that he or she shall be incapable of having or holding any licence for such purpose thereafter.

On conviction of keeping a disorderly house, licence shall be forfeited, and the offender rendered incapable of again holding a licence.

See Tables.

XIII. And be it further ordained, &c., that all and every the provisions contained in this ordinance, shall extend to and have force and effect in all and every township and seigniority, and all and every extra-parochial part or parts of townships and seigniorities in this Province.

This ordinance to have effect in every township, seigniority, &c.

XIV. And be it further ordained, &c., that any person or persons (except any persons who may have obtained licences to keep houses or other places of public entertainment) who shall sell or retail ale or other malt liquors, or cider, or spruce beer, ginger beer or other fermented liquors, to be drunk in their house, out-house, yard, garden, orchard or other place, shall be considered and deemed to be liable to the penalty or penalties which are by law imposed on persons keeping houses or other places of public entertainment without a licence ; and such penalty or penalties may be sued for

Persons selling malt liquors, cider, spruce or ginger beer, or other fermented liquors, without licence, subject to a penalty.
See Tables.

and recovered, and shall be distributed, applied and accounted for, in the manner and form provided by law with regard to penalties imposed on persons selling spirituous liquors without a licence, as in and by the said act passed in the sixth year of His late Majesty's reign, it was provided and enacted.

In country
parishes, such
licence to be
signed by
senior church-
warden or jus-
tice of the
peace.
Licence to be
exhibited.

Fine.

Duty of ser-
geants to prose-
cute.

Proviso.

Penalty to the
Queen.

Offences
against this
ordinance may
be prosecuted
before two jus-
tices of the
peace, who
may award
fine or impri-
sonment.

XV. And be it further ordained, &c., that no person shall in the country parishes of this Province, open any house or put any sign for the sale of beer, or any sort of fermented liquor, or cakes, or shall otherwise publicly sell or dispose of any such articles, at any stand or place in any such parish, without first obtaining a licence signed by the church-warden in office, or by the nearest justice of the peace, which licence must be renewed every year; and every person obtaining such licence shall exhibit the same, whenever he shall be thereunto required by any peace officer or officer of militia; and every person who shall in any way offend against the provisions of this section or any of them, shall for every such offence, and being duly convicted thereof, on the oath of one credible witness other than the informer, before any justice of the peace, incur the penalty imposed for such offence by the said act passed in the sixth year of His late Majesty's reign, that is to say, not exceeding ten pounds, currency, whereof one moiety shall belong to Her Majesty, and shall be paid into the hands of the receiver general, and the other moiety shall belong to the informer; and the justice of the peace, before whom such conviction shall take place, shall, (and he is hereby authorized) if such penalty be not forthwith paid, to commit the offender to the common gaol of the district, for a period not exceeding thirty days, or until such penalty is paid.

XVI. And be it further ordained, &c., that it shall be the duty of each and every sergeant of militia, in the country parts of this Province, to prosecute each and every person whom he shall have reasonable cause to believe to have committed any offence whatever for which a penalty is imposed by this ordinance, within the parish, seigniority or township in which such sergeant shall reside; and for each case in which it shall be proved by the oath of any one credible witness, that any such sergeant has neglected so to prosecute for any such offence, within fifteen days after sufficient information had been laid before him to give him reasonable cause to believe that such offence had been committed, or after he had himself such personal knowledge as would amount to such reasonable cause, he shall for such neglect, incur a penalty not exceeding forty shillings, currency, to be sued for, recovered and levied in the manner provided with regard to the penalties imposed by this ordinance: Provided always that any sergeant of militia, who shall, under the requirements of this ordinance, prosecute any offender, shall, if the offender be convicted, recover his necessary costs and disbursements actually incurred about such prosecution, but shall have no part of the penalty imposed on the offender, which penalty shall in such case, belong exclusively to Her Majesty, for the public uses of this Province.

XVII. And be it further ordained, &c., that upon complaint before any two justices of the peace residing within the parish, seigniority or township, of any offence against this ordinance, such justices may issue their summonses under their hand and seal, enjoining the party complained of to appear before them and answer such complaint; and upon due proof of such offence, by the oath of any credible witness other than the informer, such justices shall adjudge that the offender has forfeited a penalty equal in

amount to that imposed on such offenders by the act passed in the sixth year of His late Majesty's reign, and hereinbefore cited, that is to say,—a penalty not exceeding ten pounds, currency, one moiety thereof to Her Majesty, and the other to the informer, with costs, and may levy such penalty and costs by warrant of distress to seize and sell the offender's goods and chattels, in satisfaction of the said judgment,—and for want of sufficient distress, may issue their warrant to cause the offender to be apprehended and conveyed to the common gaol of the district, there to remain in safe custody until the said penalty and costs shall have been paid: Provided always, that no person shall be detained in such custody longer than three months by virtue of any such warrant. *See Tables.*

XVIII. And be it further ordained, &c., that no brewer of ale, beer or other malt liquor, nor any distiller or vendor of spirits, brandy or other spirituous liquors, shall act as a justice of the peace, or officer of militia, or church-warden, under this ordinance; and any order, judgment or other thing whatsoever, given or made by such person, as a justice of the peace, or officer of militia, or church-warden, in or concerning any matter relative to this ordinance, shall be void and of no effect; and any person acting as a justice of the peace, or officer of militia, or church-warden, in contravention of this ordinance, shall, for each such offence incur the penalty imposed for similar offences by the act herein last above cited, that is to say,—a penalty of ten pounds, currency, recoverable with costs by civil action in any court of competent jurisdiction; and one moiety of such penalty shall belong to the Queen, and the other moiety to the person suing for the same. *No brewer, distiller, or vendor of spirituous liquors, to act as a justice of the peace or church-warden, in matters under this ordinance.*

XX. And be it further ordained, &c., that every person to whom shall be entrusted the expenditure of any portion of the public monies, under the authority of this ordinance, shall make up detailed accounts of such expenditure, shewing the sum advanced to the accountant, the sum actually expended, the balance, if any, remaining in his hands; and that every such account shall be supported by vouchers, therein distinctly referred to by numbers corresponding to the items of such account, which shall be made up and closed on the tenth day of April and the tenth day of October, in each year during which such expenditure shall be made, and shall be attested before a justice of the court of King's bench, or a justice of the peace, and shall be transmitted to the officer whose duty it shall be to receive such accounts, within fifteen days next after the expiration of the said periods, respectively. *Expenditure of public monies under this ordinance to be accounted for. See Tables.*

XXI. And be it further ordained, &c., that the due application of the monies expended under the authority of this ordinance, and of the fines and penalties received under the authority thereof, shall be accounted for to Her Majesty, Her Heirs and Successors, through the lords commissioners of Her Majesty's treasury, for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct. *Application of fines to be accounted for.*

SCHEDULE A.

" Province of Lower Canada, }
 " District of }

" I, _____ of the parish (or place) of _____ in the county of _____
 " in the district of _____ being duly sworn, do depose and say, that I am
 " duly qualified, according to the laws of this Province, to obtain a licence
 " to keep a house of public entertainment and to retail spirituous liquors
 " therein: So help me God.

III. And be it further ordained, &c., that the nineteenth section of the ordinance, &c., (2 Vict. (3) cap. 14.,) shall be and the said section is hereby repealed. Sect. 19 of 2 Vict. c. 14, repealed.

V. And be it further ordained and enacted, &c., that this ordinance and the ordinance hereinbefore cited, as hereby amended, shall be and are hereby made permanent, and shall remain in force until repealed or altered by competent authority. This ordinance and that hereby amended, made permanent.

An Ordinance to amend the Law relative to the granting of 4 Vict. Cap. 28.

Licences to keep houses of public entertainment, and to enable the Magistrates resident in the City of Montreal, to hold another special session for granting certificates on which such Licences may be granted during the present year.

WHEREAS it is expedient to amend the law relative to the granting of licences to keep houses of public entertainment, by extending that provision of the law by which such licences may in certain cases be granted by the person administering the government, without the certificates required in other cases:—Be it therefore ordained, &c., that from and after the passing of this ordinance it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government of this Province, to grant a licence to keep a house of public entertainment, and to retail spirituous liquors therein, to any person or persons, if it shall appear to his satisfaction that such licence ought to be so granted, although such person or persons may have failed to obtain any certificate heretofore required before such licence could be granted; and any licence granted under the provisions of this ordinance shall have the same effect to all intents and purposes whatever, as if it had been granted on such certificate as aforesaid; any thing in a certain ordinance passed, &c., (2 Vict. (3) cap. 14.) or in any other ordinance, statute or law to the contrary notwithstanding: Provided always, that no licence shall, under the provisions of this ordinance, be granted to any person who shall not, during the then current year, have taken an oath in the form of the schedule A, to the said ordinance annexed; and that no such licence shall be granted for any period extending beyond the twentieth day of May in the year next after that in which such licence shall be granted. Preamble.
The Governor may grant tavern licences to persons who may have failed to obtain the certificates required.
See Tables.
Proviso.

II. Provided always, and be it further ordained, &c., that the same duty shall be payable on and for any licence granted under the authority of this ordinance, as if such licence had been granted under the provisions of the ordinance last cited; and that nothing in this ordinance shall extend or be construed to extend to repeal, alter or affect any part of the said ordinance, or any act, ordinance or law relative to persons keeping houses of public entertainment or retailing spirituous liquors, except only in so far as the same may be repugnant to or inconsistent with the express enactments of this ordinance. Same duty to be paid on such licences as if granted under the provisions of the ordinance 2 Vict. cap. 14.

40. TROOPS, QUARTERING OF.

An Ordinance for quartering the Troops, upon certain occasions, in the country Parishes, and providing for the conveyance of effects belonging to Government. 27 Geo. III. Cap. 3.

EXPERIENCE having demonstrated that, on account of the local position of this Province, it is indispensably necessary, upon certain occasions, Preamble.
See Tables.

All house-holders in the country parishes liable to lodge troops, furnish carriages, and serve as battoe-men.

How the carriages are to be furnished upon a march.

How the troops are to be quartered when in cantonment.

How firewood is to be furnished the officers and guards.

sions, to quarter the troops at the houses of the country inhabitants ; and that for the same reason, it is impossible to convey, at all times, the ammunition, provisions, and other effects of government, to the different stores or magazines, without the assistance of the inhabitants :—It is enacted and ordained, &c., that all house-holders, in the country parishes, who shall not be particularly exempted by this ordinance, shall be obliged to lodge troops, furnish carriages, and serve as battoe-men, whenever they shall be thereunto required by the captains of militia, in the manner hereinafter mentioned : that is to say, whenever the troops or militia are upon a march, the commanding officer of the battalion or detachment, shall present to the captains of militia, or other senior officers of the parishes, the order he may have had on the part of the Captain-general or Commander-in-chief, and where, upon extraordinary cases, an order could not be procured, he shall make a requisition in writing, to the said captains or other senior officers, who, thereupon, without loss of time, shall so billet the troops, as to facilitate their march, and in the manner the most commodious to the inhabitants ; the commanding officer of the battalion, or detachment, is authorized upon the march, to require from the captains of militia two carriages for his own use, two for the field officers and four for every fifty men : the carriages shall be relieved in succession from parish to parish, unless it shall be expressed in the order that they are to accompany the troops to the end of their day's march ; and the said captains or senior officers are hereby authorized to command, in their respective parishes, a supply of such carriages ; whosoever shall neglect or refuse to lodge troops or furnish carriages as hereinbefore is expressed, shall forfeit the sum of twenty shillings ; and for a second offence, as well as for every subsequent offence, such person shall forfeit the sum of five pounds, or suffer imprisonment for any space of time not exceeding fifteen days.

II. When the troops or militia are obliged to be cantoned in the winter, in the country parishes, the field officer ordered upon that duty by the Captain-general, or Commander-in-chief, shall apportion the number to be quartered in each parish, and send his orders accordingly to the captains of militia, who shall regulate the quarters, both for the officers and soldiers, discreetly avoiding to incommode the inhabitants in their houses, but taking due care to accommodate the troops ; the quarters being once established, the captain is to make a report thereof, and they are not to be changed without their acquiescence ; two soldiers only are to be lodged in each house, and one only in the houses of the poorest inhabitants ; the inhabitants shall furnish them with a straw bed, coverlets or blankets, and a pair of sheets, to be changed once in every month, with room at their fire and by their lights, and with permission to cook their victuals.

The officers shall be provided with a room or apartment, such as it may happen to be, but it shall not be that of the inhabitant himself, with a table, three chairs, and a bed for a servant, such as for a soldier ; they shall have the use of the fireplace of the inhabitant, as well for warming, as having their victuals dressed by it ; and if they should choose to have a fire in their own apartment, all the inhabitants of the parish, according to an apportionment to be made by the captain of militia or senior officer, shall be obliged to furnish firewood, according to the rank of the officers, agreeable to such regulations as the Captain-general or Commander-in-chief of the Province shall make ; the captains or senior officers of militia shall likewise provide quarters for the guard, taking care that the situation be the most advantageous

to the troops ; and this guard is to be furnished with firewood in the same manner as it is directed to be done for the officers.

If the commanding officers of regiments or detachments in cantonments should have occasion for carriages for the service, they shall make their requisition in writing to the captains of militia, specifying the service, who shall issue their orders for the purpose.

Every person who shall disobey any of the clauses contained in this article (not being exempted therefrom by this ordinance,) shall be fined ten shillings for the first offence, and twenty for every subsequent offence. Penalty for disobedience.

III. If the troops should be guilty of any disorderly behaviour, either upon the march, or when in cantonments, the person injured, shall without delay make his complaint, supported by proof, to the captain of militia, or the senior officer of the company to which he belongs, who shall forthwith conduct him before the officer commanding the troops in that parish ; If such officer shall decline doing him justice, the complaint shall be laid before the commanding officer of the next principal post ; and if satisfaction should not there be obtained, the complaint shall be carried to the colonel of the district, or senior field officer, who shall lay the same before the Captain-general or Commander-in-chief for his decision thereof. How the misbehaviour of the troops is to be enquired into.

IV. It is further enacted, &c., that all the country inhabitants and householders, who are not exempted by this ordinance, shall furnish carriages and serve as battoe-men, every one in his turn of duty, in the manner herein-after mentioned, whenever they shall be required so to do by their captains of militia, in consequence of the orders of government ; the carters living in the towns and suburbs shall be obliged to furnish carriages in their turn. Carriages to be furnished and battoe-men to serve when required.

In all cases where the government shall be under the necessity of procuring carts, sledges, or other carriages for conveying provisions, ammunition, baggage or other effects, agreeably to the orders of the Captain-general or Commander-in-chief, the commissary of the district directing that service, shall transmit his orders, mentioning the place of rendezvous, to the captains of militia, who will respectively command the number required ; the loading upon each carriage shall in no case exceed six hundred weight, according to the state of the roads, and shall be carried from parish to parish, unless the Captain-general or Commander-in-chief, judging it necessary for the good of the service, shall give order that they be employed for the whole day, or longer if the case should require it.

When the conveyance is to be made by water, the battoe-men shall have two days, from the time they are commanded to prepare themselves for the service ; at the expiration of which time they shall present themselves at the dwelling house of their respective captains, who will cause them to be conducted by an officer or sergeant, to the place described in the order.

All persons who shall neglect or refuse to furnish carriages, or to march upon the battoe-service, according to the directions mentioned in this article, as well as those who shall desert or quit the service without being duly discharged, shall incur a penalty of forty shillings, and for a second and every subsequent offence, shall pay a fine of five pounds and suffer one-month's imprisonment. Penalty for neglect or refusal.

And all persons employed in such transport service, either by land or by water, who shall disobey those employed to conduct them, shall pay a fine of ten shillings, and for a repetition of the offence, shall suffer eight days' imprisonment. Penalty for disobedience when employed.

Captains of militia to send a roll of the party to the commissary.

V. The captains of militia or senior officers shall regularly send to the commissary of the district, having the direction of the transport service, a roll of the brigade or party, by the officer or sergeant conducting the same, mentioning therein the names of those who shall have missed their turn, and specifying the cause, whether on account of absence, sickness, or for what other reason; and in order to prevent abuses, the commissaries directing the transport service, shall respectively keep a register, in which they shall enter the names and surnames of the persons employed, and the parishes to which they belong.

Penalty on captains of militia for partiality or misbehaviour.

All captains and other officers of militia who shall be convicted of having acted with partiality, in having exempted any persons without being fully authorized so to do, or having commanded others out of their turn of duty, or who shall misuse, in any manner, the authority delegated to them, shall pay a fine of forty shillings, and for a second offence may be condemned to pay five pounds.

Mode of prosecution for the penalties.

VI. In cases where the fine imposed in virtue of this ordinance shall not exceed the sum of ten shillings, any one commissioner or justice of the peace, and in cases exceeding that sum, and where imprisonment is to be inflicted, any three commissioners or justices of the peace, is, and are hereby authorized and required to hear and determine, summarily, all offences committed against the same, to inflict the punishments and to levy the penalties, together with the amount of the travelling and other expenses of the person prosecuting, by order of seizure under his or their hands and seals, and to pay the monies proceeding therefrom, into the hands of the receiver general of the Province, for the use of His Majesty. Whosoever shall think himself aggrieved by any determination or decision of the said commissioners or justices of the peace, imposing a fine exceeding forty shillings, or a punishment of imprisonment for more than eight days, may appeal to the Governor and council of this Province, of which council any five members, (the commissioners or justices of the peace who shall have given such determination or decision excepted) with the Governor, Lieutenant-Governor, or chief justice, shall constitute a court of appeal for the purpose of hearing and finally determining the same.

Appeal allowed in certain cases.

Persons exempted from transport of provisions, &c.

VII. The members of His Majesty's council, the judges, the commissioners or justices of the peace, the seigniors who are *seigneurs primitifs*, the *noblesse*, officers upon half pay, the religious communities, the seminary and college of Quebec and Montreal, the clergy in general, the captains of militia in commission, as well as those who shall have honorably retired from the service, are exempted from quartering troops, furnishing carriages, and marching upon the battoe service, and may respectively have one servant exempted likewise.

Masters of post-houses with two servants each, the sisters of the congregation with one servant, the subaltern officers and sergeants of militia, are also exempted from lodging troops, and from all transport service.

Notaries, physicians, surgeons and apothecaries, who are duly authorized to act as such, school-masters duly authorized, one assistant post-master, and one beadle in each parish, and millers with one servant, are exempted from all transport service.

The widows of captains of militia, during their widowhood, shall enjoy the same exemptions as captains, and all others whom the Captain-general or Commander-in-chief shall specially exempt under his hand and seal.

VIII. And be it further enacted, &c., that the several fines and forfeitures aforementioned, which are hereby granted and reserved to His Majesty, His Heirs and Successors, for the public uses of this Province, and the support of the government thereof, may be applied, in the whole or a portion thereof, in such manner as the Governor or the Commander-in-chief of the Province for the time being, shall conceive to be most conducive to the services by this ordinance intended to be promoted and executed ; and that the same, and the expenditures thereof, shall be accounted for to His Majesty, His Heirs and Successors, or to the commissioners of His Majesty's treasury for the time being, and audited by His Majesty's auditor-general for the plantations or his deputy.

Application of the fines and forfeitures.

IX. Whereas the conveniency and good government of the troops and militia, on their march and in quarters, as well as the conveyance of effects belonging to government, may require provisions to be made which may have been omitted in this ordinance :—It is therefore further enacted, &c., that the Governor or Commander-in-chief, for the time being, may, and he is hereby authorized to make such other and further regulations for that purpose as experience may point out to be expedient and fit : Provided nevertheless, that the disobedience to, or neglect of such regulations, shall not in any case subject the offender to a greater punishment than a fine of forty shillings, to be levied and disposed of as hereinbefore directed.

Authority delegated to the Governor for making further regulations.

41. USEFUL ARTS, PATENTS FOR INVENTIONS.

An Act to repeal certain Acts therein mentioned, and to consolidate the provisions therein made for the encouragement of useful Arts in this Province.

6 WILL IV. cap. 34.

WHEREAS it is expedient for the encouragement of genius and of arts in this Province, to secure an exclusive right to the inventor or first introducer of any new and useful art, machine, manufacture and composition, and to consolidate the divers acts passed by the provincial legislature for that purpose :—Be it therefore enacted, &c., that a certain act passed in the first year of His Majesty's reign, chapter twenty-four, intituled, *An act for the encouragement of the useful arts in this Province*, and a certain other act passed in the ninth year of His late Majesty's reign, chapter forty-seven, intituled, *An act to revive and amend an act for the promotion of useful arts in this Province*, and a certain other act passed in the fourth year of His said late Majesty's reign, chapter twenty-five, intituled, *An act to promote the progress of useful arts in this Province*, shall be and the said acts are and each of them is hereby repealed : Provided always, that any patent heretofore issued under the said acts, or any of them, shall have the same force and effect as if the said acts were not so repealed.

1 Will. 4. cap. 24.—9 Geo. 4. cap. 47, and 4 Geo. 4. cap. 25, repealed.

Proviso.

II. And be it further enacted, &c., that when any subject of His Majesty, being an inhabitant of this Province, shall allege that he has invented any new or useful art, machine, manufacture, or composition of matter, not known or used before his application, and shall present a petition to the Governor, Lieutenant-Governor, or person administering the government of the Province, for the time being, signifying the desire of obtaining an exclusive property in the same, and praying that a patent may be granted

British subjects, inhabitants of this Province, how to proceed to obtain a patent

See Tables.

therefor, it shall and may be lawful to the Governor, Lieutenant-Governor, or person administering the government of this Province, for the time being, to cause letters patent of His Majesty to be made out, bearing test by the Governor, Lieutenant-Governor, or person administering the government of this Province, for the time being, containing a summary of the said petition, and giving a short description of the said invention or discovery, and therefor granting to the petitioner or petitioners, his or their heirs or assigns, or their legal representatives, for a term not exceeding fourteen years, the full and exclusive right and liberty of making, constructing, using and vending to others to be used, the said invention or discovery; which letters patent shall be delivered to His Majesty's attorney, (or in his absence, to His Majesty's solicitor) general, in this Province, to be examined, who shall, within fifteen days of such delivery, if he find the same conformable to this act, certify accordingly at the foot thereof, and return the same to the secretary of the Province, who or whose deputy, or person appointed to do the duty of that office, shall present the letters patent thus certified, to the Governor, Lieutenant-Governor, or person administering the government of the Province, for the time being, to be signed, and shall cause the great seal of the Province to be thereunto affixed, and the same shall be good and available to the grantee or grantees by force of this act, and shall be recorded in a book to be kept for that purpose in the office of the said secretary of the Province, and delivered to the patentee or his order.

Persons discovering an improvement in principle, to sell the improvement only.
Changing the form not to be deemed a discovery.

Inventor, before receiving a patent, to take an oath,

III. Provided always, and be it further enacted, &c., that any person who shall have discovered an improvement in the principle of any machine or composition of matter which shall have been patented, and shall have obtained a patent for such improvement, shall not be at liberty to make, use or vend the original discovery, but the improvement only; nor shall the first inventor be at liberty to use the improvement; And it is hereby enacted and declared, that simply changing the form or the proportion of any machine or composition in any degree, shall not be deemed a discovery.

IV. And be it further enacted, &c., that every inventor before he can receive a patent, shall swear, (or being a quaker shall affirm,) that he does verily believe that he is the true inventor or discoverer of the art, machine, or improvement for which he solicits a patent, (which oath or affirmation may be made before any justice of the peace,) and shall deliver a written description of his invention or improvement, and of the manner or process of compounding the same, in such full, clear and exact terms as to distinguish the same from all other things before known, and to enable any person skilled in the art or science of which it is a branch, or with which it is most clearly connected, to make, compound and use the same; and in the case of any machine, he shall fully explain the principle and the several modes in which he has contemplated the application of that principle or character by which it may be distinguished from other inventions; and he shall accompany the whole with drawings and written references where the nature of the case admits of drawings, or with specimens of the ingredients, or of the composition of matter, sufficient in quantity for the purpose of experiment; which description, signed by himself and attested by two witnesses, shall be filed in the office of the secretary of the Province, and certified copies thereof shall be competent evidence in all courts where any matter or thing touching patent right, shall come in question; such inventor shall moreover deliver a model of the machine by him invented, provided the secretary shall deem such model to be necessary.

V. And be it further enacted, &c., that it shall be lawful for any inventor, his heirs or other lawful representatives, to assign the title and interest in the said invention at any time ; and the assignee, having recorded the said assignment in the office of the said secretary of the Province, shall thereafter stand in the place of the first inventor, as well with regard to his rights as to his responsibility, and so the assignee or assigns to any degree.

Inventor may assign his right.

VI. And be it further enacted, &c., that if any person shall make or manufacture for sale, any article or composition so invented, or shall make or manufacture or make use of any instrument or machinery so invented or specified, the exclusive right of which shall, as aforesaid, have been secured to any person by patent, without the consent of the patentee, his heirs and assigns, or other lawful representatives, first obtained in writing, every person so offending, shall forfeit and pay to the patentee, his heirs or assigns, or lawful representatives, a sum that shall be at least equal to three times the price for which the patentee, his heirs or assigns or lawful representatives, have usually sold or licensed, or might have sold or licensed to other persons the use of the said invention, which may be recovered in an action in any court of competent jurisdiction.

Penalty on persons making or manufacturing for sale any article, the exclusive right of which has been secured by patent, without the consent of the patentee first had and obtained.

VII. Provided always, and be it further enacted, &c., that if at the trial in any such action, it shall be made apparent, to the satisfaction of the court, (the defendant having specially pleaded the same,) that the specification filed by the plaintiff does not contain the whole truth relative to his discovery, or that it contains more than is necessary to produce the desired effect, (such concealment or addition fully appearing to have been made for the purpose of deceiving the public,) or that the thing thus secured by patent, was not originally discovered by the patentee, but had been in use, or had been described in some public work, anterior to the supposed discovery of the patentee, or that he had surreptitiously obtained a patent for the discovery of another person, in either of the said cases, judgment shall be rendered for the defendant, with costs, and the patent shall be declared void.

Cases in which the patent shall be void.

VIII. And be it further enacted, &c., that in case of interfering applications, the same shall be submitted to the arbitration of three persons, one of whom shall be chosen by each of the applicants, and the third person shall be chosen by the said secretary of the Province, or by his deputy, or person appointed to do the duty of that office ; and the decision or award of such arbitrators, delivered to the secretary in writing, and subscribed by them or any two of them, shall be final, as far as respects the granting of the patent ; and if either of the applicants shall refuse or fail to choose an arbitrator, the patent shall issue to the opposite party ; and when there shall be more than two interfering applications, and the parties applying shall not all unite in appointing three arbitrators, it shall be in the power of the said secretary of the Province or his deputy or person appointed to do the duty of that office, to appoint three arbitrators for the purposes aforesaid.

In cases of interfering applications, the same to be submitted to arbitration.

IX. And be it further enacted, &c., that upon oath or affirmation being made before any judge of the court of King's bench of the district where the patentee, his heirs and assigns, or other legal representatives reside, that any patent which shall be issued in pursuance of this act, was obtained surreptitiously, or upon false suggestion, on motion made to the said court, within three years after the issuing of the said patent, but not afterwards, it shall and may be lawful for the court aforesaid, if the matter alleged shall appear to be sufficient, to grant a rule that the patentee, or his heirs, assigns

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See Tables.

therefor, it shall and may be lawful to the Governor, Lieutenant-Governor, or person administering the government of this Province, for the time being, to cause letters patent of His Majesty to be made out, bearing test by the Governor, Lieutenant-Governor, or person administering the government of this Province, for the time being, containing a summary of the said petition, and giving a short description of the said invention or discovery, and therefor granting to the petitioner or petitioners, his or their heirs or assigns, or their legal representatives, for a term not exceeding fourteen years, the full and exclusive right and liberty of making, constructing, using and vending to others to be used, the said invention or discovery; which letters patent shall be delivered to His Majesty's attorney, (or in his absence, to His Majesty's solicitor) general, in this Province, to be examined, who shall, within fifteen days of such delivery, if he find the same conformable to this act, certify accordingly at the foot thereof, and return the same to the secretary of the Province, who or whose deputy, or person appointed to do the duty of that office, shall present the letters patent thus certified, to the Governor, Lieutenant-Governor, or person administering the government of the Province, for the time being, to be signed, and shall cause the great seal of the Province to be thereunto affixed, and the same shall be good and available to the grantee or grantees by force of this act, and shall be recorded in a book to be kept for that purpose in the office of the said secretary of the Province, and delivered to the patentee or his order.

Persons discovering an improvement in principle, to sell the improvement only.
Changing the form not to be deemed a discovery.

Inventor, before receiving a patent, to take an oath,

III. Provided always, and be it further enacted, &c., that any person who shall have discovered an improvement in the principle of any machine or composition of matter which shall have been patented, and shall have obtained a patent for such improvement, shall not be at liberty to make, use or vend the original discovery, but the improvement only; nor shall the first inventor be at liberty to use the improvement; And it is hereby enacted and declared, that simply changing the form or the proportion of any machine or composition in any degree, shall not be deemed a discovery.

IV. And be it further enacted, &c., that every inventor before he can receive a patent, shall swear, (or being a quaker shall affirm,) that he does verily believe that he is the true inventor or discoverer of the art, machine, or improvement for which he solicits a patent, (which oath or affirmation may be made before any justice of the peace,) and shall deliver a written description of his invention or improvement, and of the manner or process of compounding the same, in such full, clear and exact terms as to distinguish the same from all other things before known, and to enable any person skilled in the art or science of which it is a branch, or with which it is most clearly connected, to make, compound and use the same; and in the case of any machine, he shall fully explain the principle and the several modes in which he has contemplated the application of that principle or character by which it may be distinguished from other inventions; and he shall accompany the whole with drawings and written references where the nature of the case admits of drawings, or with specimens of the ingredients, or of the composition of matter, sufficient in quantity for the purpose of experiment; which description, signed by himself and attested by two witnesses, shall be filed in the office of the secretary of the Province, and certified copies thereof shall be competent evidence in all courts where any matter or thing touching patent right, shall come in question; such inventor shall moreover deliver a model of the machine by him invented, provided the secretary shall deem such model to be necessary.

V. And be it further enacted, &c., that it shall be lawful for any inventor, his heirs or other lawful representatives, to assign the title and interest in the said invention at any time ; and the assignee, having recorded the said assignment in the office of the said secretary of the Province, shall thereafter stand in the place of the first inventor, as well with regard to his rights as to his responsibility, and so the assignee or assigns to any degree.

Inventor may assign his right.

VI. And be it further enacted, &c., that if any person shall make or manufacture for sale, any article or composition so invented, or shall make or manufacture or make use of any instrument or machinery so invented or specified, the exclusive right of which shall, as aforesaid, have been secured to any person by patent, without the consent of the patentee, his heirs and assigns, or other lawful representatives, first obtained in writing, every person so offending, shall forfeit and pay to the patentee, his heirs or assigns, or lawful representatives, a sum that shall be at least equal to three times the price for which the patentee, his heirs or assigns or lawful representatives, have usually sold or licensed, or might have sold or licensed to other persons the use of the said invention, which may be recovered in an action in any court of competent jurisdiction.

Penalty on persons making or manufacturing for sale any article, the exclusive right of which has been secured by patent, without the consent of the patentee first had and obtained.

VII. Provided always, and be it further enacted, &c., that if at the trial in any such action, it shall be made apparent, to the satisfaction of the court, (the defendant having specially pleaded the same,) that the specification filed by the plaintiff does not contain the whole truth relative to his discovery, or that it contains more than is necessary to produce the desired effect, (such concealment or addition fully appearing to have been made for the purpose of deceiving the public,) or that the thing thus secured by patent, was not originally discovered by the patentee, but had been in use, or had been described in some public work, anterior to the supposed discovery of the patentee, or that he had surreptitiously obtained a patent for the discovery of another person, in either of the said cases, judgment shall be rendered for the defendant, with costs, and the patent shall be declared void.

Cases in which the patent shall be void.

VIII. And be it further enacted, &c., that in case of interfering applications, the same shall be submitted to the arbitration of three persons, one of whom shall be chosen by each of the applicants, and the third person shall be chosen by the said secretary of the Province, or by his deputy, or person appointed to do the duty of that office ; and the decision or award of such arbitrators, delivered to the secretary in writing, and subscribed by them or any two of them, shall be final, as far as respects the granting of the patent ; and if either of the applicants shall refuse or fail to choose an arbitrator, the patent shall issue to the opposite party ; and when there shall be more than two interfering applications, and the parties applying shall not all unite in appointing three arbitrators, it shall be in the power of the said secretary of the Province or his deputy or person appointed to do the duty of that office, to appoint three arbitrators for the purposes aforesaid.

In cases of interfering applications, the same to be submitted to arbitration.

IX. And be it further enacted, &c., that upon oath or affirmation being made before any judge of the court of King's bench of the district where the patentee, his heirs and assigns, or other legal representatives reside, that any patent which shall be issued in pursuance of this act, was obtained surreptitiously, or upon false suggestion, on motion made to the said court, within three years after the issuing of the said patent, but not afterwards, it shall and may be lawful for the court aforesaid, if the matter alleged shall appear to be sufficient, to grant a rule that the patentee, or his heirs, assigns

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or other legal representatives, show cause why process should not issue to repeal such patent; and if sufficient cause shall not be shown to the contrary, the rule shall be made absolute, and thereupon the said court shall order process to issue against such patentee, his heirs, assigns or other legal representatives, with costs of suit; and in case no sufficient cause shall be shown to the contrary, or if it shall appear that the patentee was not the true inventor or discoverer, judgment shall be rendered by such court, for the repeal of such patent; and if the party at whose complaint the process issues, shall have judgment given against him, he shall pay such costs to the defendant as shall be taxed by the court, which shall be recovered in the usual and customary manner.

Fee due to the secretary for the patent.

Proviso.

Privileges, &c. extended to subjects of His Majesty who, on their travels, may have discovered, or are desirous of introducing any new machine, &c., into this Province.

See Tables.
Proviso.

Such person to make oath that he believes himself to be the first introducer or publisher of such invention.

See Tables.

X. And be it further enacted, &c., that every inventor as aforesaid, presenting a petition and signifying his desire to obtain a patent, pursuant to this act, shall pay into the hands of the secretary of the Province, or his deputy, or person appointed to do the duty of that office, the fee of two pounds, currency, which shall be in full of all fees due and payable by any such person petitioning for a patent as aforesaid, with respect to such patent, and for all services by whomsoever performed in relation thereto, whether by such secretary or others: Provided always, that for every copy which may be required at the office of the said secretary, of or respecting any such patent that shall have been granted, the person obtaining such copy shall pay at the usual rate by law authorized for copies in the said office; and for every copy of any drawing relating to such patent, the party entitled to and obtaining the same, shall be liable to pay five shillings, currency, and no more.

XI. Provided always, and be it further enacted, &c., that the privileges, clauses, provisions, powers and legal remedies, intended and mentioned by this act, which are secured to, imposed upon and apply to the inventor and discoverer of any new and useful art, machine, manufacture, or composition of matter for which he or she shall make application for a patent, shall be construed to extend to and to include, and are hereby declared to extend to and include any subject of His Majesty, being an inhabitant of this Province, who shall on his or her travels in any foreign country, have discovered or obtained a knowledge of, and be desirous of introducing in this Province, any new and useful art, machine, manufacture, or composition of matter, not known or not in use in this Province before his or her application for the same: Provided nevertheless, that nothing herein contained, shall extend to inventions or discoveries of any new and useful art, machine, manufacture or composition of matter, made, discovered or used in the United States of America, or in any part of His Majesty's dominions in America, or be construed to prevent the free importation thereof into this Province, for sale, by any person or persons, or for their use or otherwise, from the said United States, or His Majesty's said dominions.

XII. Provided always, and be it further enacted, &c., that such person so desirous of introducing into this Province any invention, art, machine, manufacture, or composition of matter, which he or she shall have discovered, or obtained a knowledge of in any foreign country, shall, previous to obtaining a patent for the same, in the manner prescribed in this act as to inventors and discoverers, make oath, or (in case he or she be a quaker,) affirm, that he or she believes himself or herself to be first introducer or publisher of such invention, art, machine, manufacture, or composition of matter, in this Province.

42. VOYAGEURS.

An Act for regulating Persons who hire or engage to perform Voyages to the Indian Country, or to winter there. 36 Geo. III. Cap. 10.

WHEREAS great inconveniences have of late arisen from the want of a law to regulate persons who hire or engage themselves to perform voyages to and from the Indian country, and to winter there in different capacities:—Be it therefore enacted, &c., that from and after the passing of this act, every person who shall hire or engage as a guide, conductor, canoe-man, batteau-man or winterer, or in any other quality or capacity, to perform a voyage to or from the Province of Upper Canada, or to or from the Indian country, or to winter or to remain there for any space of time whatsoever, (excepting as hereinafter excepted,) shall enter into an agreement for such purpose with the person or persons, or his or their agent or agents, with whom any such person shall hire or engage; and such agreement shall not be binding or valid unless the same be made in writing and executed before a notary, or, where there shall not be a notary, before two credible witnesses at the least, who can read and write, and who shall sign their names thereto; and every such agreement shall, besides such other particulars as the parties may agree upon, specify in what quality or capacity the person hires or engages,—what wages he is to receive for his services, and when and where payable, and the voyage or service he is to perform: Provided always, that it shall not be necessary for any conductor of batteau or batteau-man (unless the parties shall think fit) to enter into any other than a verbal agreement for any voyage within this Province or into Upper Canada, unless such voyage, if into Upper Canada, shall be agreed upon to extend beyond the Bay of Quinte in that Province.

Preamble.

Guides, conductors, &c., to enter into agreement before a notary.

Proviso.

Conductors of batteaux to enter into verbal agreement if the voyage does not extend beyond certain limits.

Guides, &c., not appearing at the place appointed, or refusing to proceed on the voyage may be committed to prison.

* Sic.

II. And be it further enacted, &c., that every person as aforesaid, hired or engaged under a written agreement, who shall refuse or neglect to appear at the place agreed upon for the voyage or service for which he is engaged, after being duly notified for * purpose,—or who, appearing at such place, shall refuse or neglect to proceed upon the voyage or service for which he shall have been engaged,—and complaint and proof of any such refusal or neglect being made by the oath of any person or the agent of any person to whom such guide, conductor, canoe-man, batteau-man or winterer is engaged, before any justice of the peace,—and such agreement, or an authentic notarial copy thereof, being produced, such justice shall and hereby is authorized and required to issue his warrant to any constable or other peace officer to apprehend and bring before him, or any other justice of the peace for the district, such guide, conductor, canoe-man, batteau-man or winterer so neglecting or refusing as aforesaid; and if such guide, conductor, canoe-man, batteau-man or winterer shall not forthwith, on the order that may be then made by such justice, proceed upon the voyage or service agreed upon,—or if the canoe or batteau in which such person was intended to proceed, shall have departed, then, and in every such case, unless such person shall have been prevented from appearance or from proceeding by sickness or other unavoidable necessity, proved before such justice, either by the certificate of a licensed surgeon or of a *curé*, or by the oath of at least one credible witness, (which oath every such justice is hereby empowered and required to administer,) the guide, conductor, canoe-man, batteau-man or winterer so offending, shall, by such justice, be committed to the common gaol of the district, there to remain for the space of fifteen days, unless that the person or persons to whom such

offender shall have been engaged, or his or their agent, shall sooner apply for such offender being discharged, in which case it shall and may be lawful for such justice, or any other justice for the district, to whom such application shall be made, by order under his hand and seal, directed to the gaoler, to cause such offender to be discharged; but no such discharge shall release any such offender from any claim against him by reason of any advances to him made in money or otherwise, on the faith of the agreement by him entered into.

Guides, conductors, &c., under a verbal or written agreement, who have entered on the voyage, and shall afterwards desert, may be committed to prison.

III. And be it further enacted, &c., that every person as aforesaid, hired or engaged under a written or a verbal agreement, who having entered upon the voyage or service for which he is engaged, shall afterwards absent himself from such voyage or service, without lawful cause, or shall desert therefrom, on complaint thereof being made upon oath, by the person or persons to whom any guide, conductor, canoe-man, batteau-man or winterer was hired or engaged, or by the agent or agents of such person or persons, or by the person who had the charge of any such guide, conductor, canoe-man, batteau-man or winterer, or by any other person who may have knowledge of the fact, and the agreement for the voyage or service, or an authentic notarial copy thereof being to such justice produced, the said justice shall and is hereby empowered and required to issue his warrant directed to any constable or other peace officer of the district, to apprehend and bring before him or any other justice of the peace of the district, the guide, conductor, canoe-man, batteau-man or winterer so having absented himself or deserted; and such justice of the peace, with the assistance of some other justice, or any two justices of the district, shall and may enquire into the cause of such guide, conductor, canoe-man, batteau-man or winterer so absenting himself or deserting, and if no lawful cause shall be proved to the satisfaction of such justices for such absence or desertion, then they shall and are hereby authorized, by warrant under their hands and seals, to commit the offender to the common gaol of the district, there to remain for any space of time not less than one calendar month, and not exceeding three calendar months, without bail or mainprize; but no such offender so committed to gaol shall be liable to any action or suit for the pecuniary damages that shall have been suffered in consequence of such his absenting himself or deserting from the voyage or service he had engaged to perform, except only for the amount of the advances in money or goods to such offender made, on the faith of the agreement by him entered into.

Persons engaged in the transport of goods to Upper Canada or the Indian country, who shall steal the same, may be apprehended and punished in this Province.

See Tables.

IV. And whereas, since the division of the Province of Quebec into two Provinces, persons employed in the transport of property by the inland navigation, may steal goods, wares or merchandize and evade punishment by the facility of escaping from under the jurisdiction wherein the crime may be committed:—Be it therefore enacted, that from and after the passing of this act, every person who shall hire or engage in this Province, either by written or verbal agreement, to perform any voyage or service to any part of the Province of Upper Canada, or to any part of the Indian country, out of this Province; and who in the course of such voyage or service from or to this Province, shall steal any goods, wares, merchandize or other commodities whatsoever, in or about the transportation of which he shall be in any wise employed,—and every person who being hired or engaged out of this Province to perform a voyage into the same, shall in the course of such voyage steal any goods, wares, merchandize, or other commodities whatsoever as aforesaid,—shall and may for any such crime be lawfully apprehended; and in case he shall have any such stolen goods, wares, merchandize or other

commodities in his possession or custody within this Province, it shall and may be lawful to indict, try and punish such person or persons in any district of this Province, where he or they shall have such goods, wares, merchandize or other commodities as aforesaid, in his or their custody, as if the same had been originally stolen within the limits of such district ; any law, usage or custom to the contrary thereof notwithstanding.

43. WHARFINGERS, UNCLAIMED GOODS IN THEIR HANDS.

See Class C. 12. Page 70.

44. WILLS.

See Class E. 2. Page 190.

45. WOLVES, DESTRUCTION OF.

An Act to encourage the Destruction of Wolves.—(*Temporary.*) ^{1 WILL. IV. Cap. 6.}

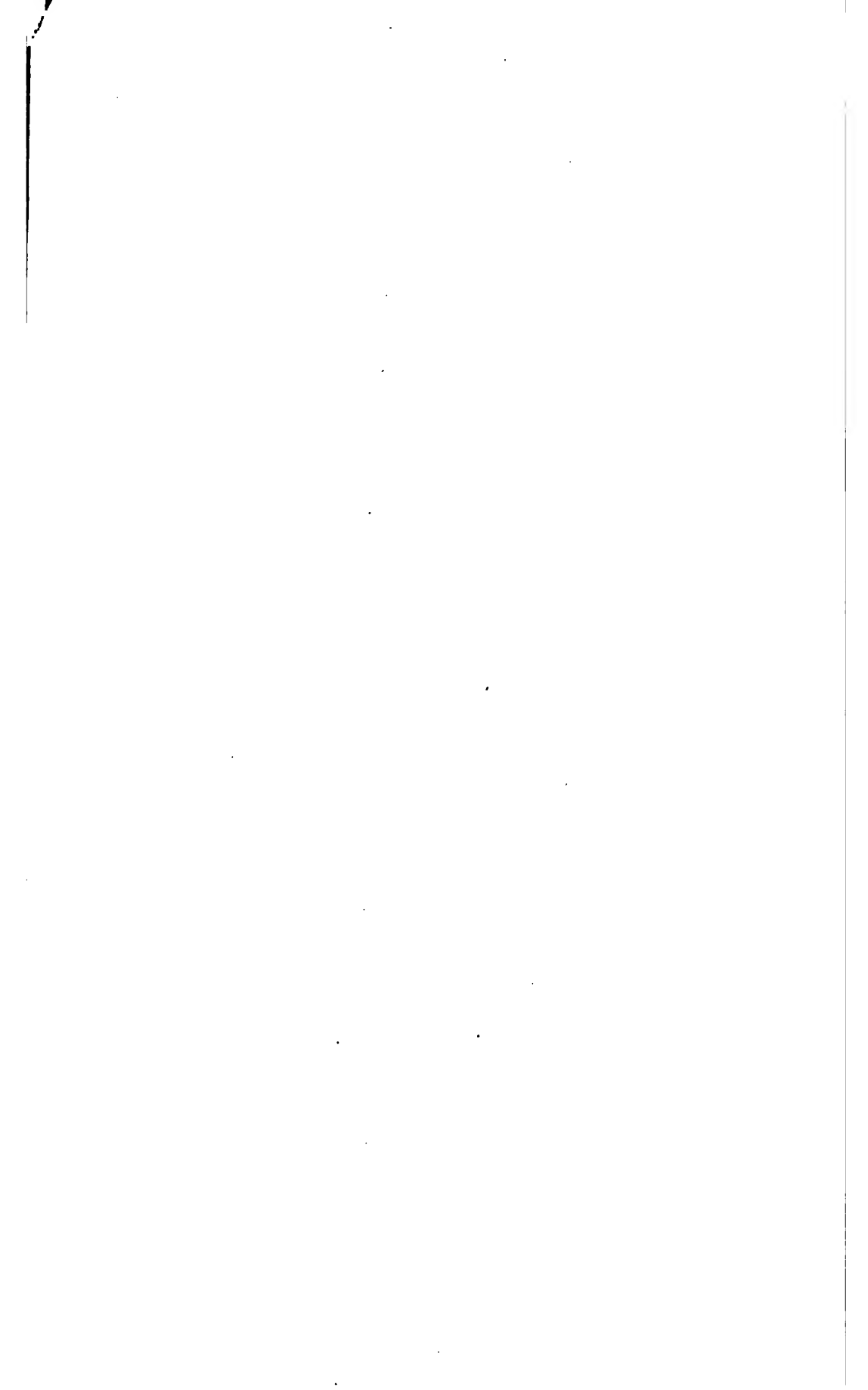
MOST GRACIOUS SOVEREIGN,

WHEREAS it is expedient to endeavour to arrest the ravages committed among sheep and cattle by wolves :—May it therefore please Your Majesty, &c., and be it enacted, &c., that any person being an inhabitant of this Province, who shall kill or cause to be killed any wolf, and who shall after the death thereof, produce the same or the head thereof, with the skin and ears entire thereon, before any justice of the peace for the district within which such wolf shall have been killed, and make oath before such justice, (which oath such justice is hereby empowered to administer,) that such wolf was killed by him, within six miles of any inhabited place in the said district, the said justice, having first caused to be cut off and burnt the ears and scalp of such wolf, shall give to such person a certificate that proof of the killing of such wolf by such person, at such place, was made to his satisfaction. Preamble.
Any inhabitant having destroyed a wolf, and making it appear to the satisfaction of a justice of the peace, that he has done so, the justice to grant him a certificate.

II. And be it further enacted, &c., that the person possessed of such certificate may present, or cause the same to be presented to the secretary of the Province, and that it shall thereupon be lawful for the Governor, Lieutenant-Governor, or person administering the government, by warrant under his hand, to order the payment to such person, his heirs, executors, curators, administrators or assigns, out of any unappropriated monies in the hands of the receiver-general, of the sum of two pounds, ten shillings, currency, for each wolf of which the destruction shall so be certified. Which certificate being produced, such person shall be entitled to £2 10s. for killing such wolf.

III. And be it further enacted, &c., that any person making the affidavit hereby required, who shall be convicted of wilfully taking a false oath respecting the killing of any wolf, shall be liable to the pains and penalties jury. Penalty on persons convicted of perjury.

IV. And be it further enacted, &c., that the due application of all monies expended by virtue of this act, shall be accounted for to His Majesty, His Heirs and Successors, through the lords commissioners of His Majesty's treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall direct. Application of the monies to be accounted for to His Majesty.



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NOTE.—With the exception of some mere continuing Acts, the following Table contains all the Provincial Acts and Ordinances which are now or have heretofore been in force in Lower Canada, but which were not inserted in the foregoing work because they had expired, or were of a private or local nature, or not being Laws passed by the Legislature of Lower Canada, did not come within the scope of the powers of the Commissioners. It includes all Acts of the Parliament of Canada; and the most important of the Imperial Acts passed since the 14 Geo. 3. c. 83, and wholly or partly in force in or affecting Lower Canada, are added for convenience sake. The Laws are classed under the subject to which they *chiefly* relate; when any of them are still in force, the first word of the heading is printed in full capitals, otherwise small letters are used except for the initials. When some are in force and others not, the words "*not in force*" are inserted between them, and a note of interrogation is added in doubtful cases. This Table resembles Table II of the "Tables relative to the Acts and Ordinances of Lower Canada," except that the arrangement is entirely alphabetical and that it includes the Acts passed since the publication of those Tables.

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